**WORKERS' COMPENSATION APPEALS BOARD**

**STATE OF CALIFORNIA**

**MARUZELLA BOGNOLI, *Applicant***

**vs.**

**ACTON-AGUA DULCE UNIFIED SCHOOL DISTRICT permissibly self-insured; administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ19844359**
**Van Nuys District Office**

# OPINION AND ORDERS DISMISSING PETITION FOR RECONSIDERATION, GRANTING PETITION FOR REMOVAL AND DECISION AFTER REMOVAL

Applicant's Petition for Reconsideration challenges the Minutes of Hearing dated December 18, 2025, which issued by the presiding workers' compensation administrative law judge (PWCJ) on January 2, 2026. The PWCJ ordered that the matter was taken off calendar. In pertinent part, the PWCJ found that there was no petition for change of venue on file and there was no good cause to change venue at this time.

Applicant contends in relevant part that the PWCJ erred in that she previously filed documents in support of her motion for change of venue and she has been deprived of a fair hearing on the merits regarding her venue change request.

We have received an Answer from defendant. The PWCJ filed a Report and Recommendation (Report) on the Petition for Reconsideration recommending that reconsideration be dismissed and removal denied.

On January 21, 2026 applicant filed a "Motion for Leave to file Supplemental Pleading." WCAB Rule 10964 requires that supplemental pleadings or responses other than the answer shall be considered only when specifically requested or approved by the Appeals Board. (Cal. Code Regs., tit. 8, § 10964(a).) Here, the supplemental pleading raises issues with respect to newly discovered evidence and requests that the matter be returned so that the WCJ can consider the

evidence. This petition is best heard by at the trial level in the first instance, and we do not consider it.

We have considered the allegations of the Petition and the Answer and the contents of the Report of the PWCJ. For the reasons discussed below, we will dismiss applicant's Petition as one for Reconsideration, grant the petition as a Petition for Removal and rescind the January 2, 2026 order taking the matter off calendar. We will return this matter to the trial level for further proceedings consistent with this opinion.

**FACTS**

Applicant filed an Application for Adjudication of Claim (Application) alleging that while employed by defendant on August 30, 2024 as a school psychologist, she sustained injury arising out of and in the course of employment (AOE/COE) to the neck, back and bilateral shoulders.

On January 10, 2025, applicant filed a Declaration of Readiness to Proceed (DOR) to a status conference on multiple issues including "change of court venue." She alleged in pertinent part that "I'm requesting that my case be moved to the Los Angeles WC court."

On March 25, 2025, from a status conference, the matter was continued to a mandatory settlement conference on the sole issue of PQME. (Minutes of Hearing, March 25, 2025.)

A Minutes of Hearing dated May 12, 2025, indicated that applicant appeared for conference but left before a disposition by the court and the matter was taken off calendar. (Minutes of Hearing, May 23, 2025.)

On May 23, 2025, applicant filed a correspondence discussing the May 12, 2025, conference and requested a change of venue to the Los Angeles District Office. (Correspondence, May 23, 2025, at p. 2.)

On May 23, 2025, applicant filed a DOR to proceed to a status conference on multiple issues including her request to change venue.

On June 27, 2025, applicant filed a "Petition for Removal," "informing the court that the case will be removed and transfer [*sic*] to the Los Angeles Federal Court."

On September 15, 2025, at a status conference, the WCJ continued the matter to a status conference before the PWCJ to decide the change of venue issue. The Minutes state that: "Applicant has requested a change of Venue to LAO, which defendant opposes. Matter will be set before PJ to decide venue issue." (Minutes of Hearing, September 16, 2025.)

At the December 18, 2025 status conference, the PWCJ indicated that there is no petition for change of venue on file and there is no good cause to change venue at this time. She ordered that the matter was taken off calendar.

It is from this Minutes of Hearing dated December 18, 2025, filed and served January 2, 2026, that applicant seeks reconsideration.

## DISCUSSION

### I.

Preliminarily, we note that former Labor Code[1] section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on January 14, 2026 and 60 days from the date of transmission is Sunday, March 15, 2026, a weekend. (See Cal.

[1] All further references are to the Labor Code unless otherwise noted.

Code Regs., tit. 8 § 10600(b).)[2] The next business day that is 60 days from the date of transmission is Monday, March 16, 2026. This decision was issued by or on March 16, 2026, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the PWCJ, the Report was served on January 14, 2026, and the case was transmitted to the Appeals Board on January 14, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on January 14, 2026.

**II.**

In our recent en banc decision, *Perez v. Chicago Dogs* (2015) 90 Cal.Comp.Cases 830, 836-837 (Appeals Board en banc) (*Chicago Dogs*), we reiterated the following legal principles on the due process right to a fair hearing and a determination on the merits.

As a matter of due process, all parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) "Due process requires notice and a meaningful opportunity to present evidence in regards to the issues." (*Rea v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [70 Cal.Comp.Cases 312]; see also *Fortich v. Workers' Comp. Appeals Bd*. (1991) 233 Cal.App.3d 1449, 1452-1454 [56 Cal.Comp.Cases 537].) A fair hearing includes, but is not limited

[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker*, *supra*, at pp. 157-158 citing *Kaiser Co. v. Industrial Acci. Com.* (*Baskin*) (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) As stated by the Court of Appeal:

> A denial of due process to a party ordinarily compels annulment of the Board's decision only if it is reasonably probable that, absent the procedural error, the party would have attained a more favorable result. However, if the denial of due process prevents a party from having a fair hearing, the denial of due process is reversible per se.

(*Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd*. (*Pinkney*) (1994) 26 Cal.App.4th 789, 806 [59 Cal.Comp.Cases 461], citations omitted.)

It is the policy of the law to favor, whenever possible, a hearing on the merits. (*Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1205 [57 Cal.Comp.Cases 149]; see also *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478 [243 Cal. Rptr. 902] ("when a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default.") This is particularly true in workers' compensation cases, where there is a constitutional mandate "to accomplish substantial justice in all cases." (Cal. Const., art. XIV, § 4.)

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Id.* at p. 404.) Furthermore, decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) Section 5701 allows the WCJ to "cause testimony to be taken, or inspection

of the premises where the injury occurred to be made, or…direct any employee claiming compensation to be examined by a regular physician." (Lab. Code, § 5701; see also Lab. Code, § 5906 [permitting the Appeals Board to grant reconsideration and direct the taking of additional evidence].)

Further, in *Chicago Dogs*, we observed that in workers' compensation proceedings, pleadings are liberally construed and may be amended to proof as follows:

> The workers' compensation system "was intended to afford a simple and nontechnical path to relief." Generally, "the informality of pleadings in workers' compensation proceedings before the Board has been recognized." "[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits." Courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. "Necessarily, failure to comply with the rules as to details is not jurisdictional."
>
> Therefore, in workers' compensation proceedings, it is settled law that (1) *pleadings may be informal;* (2) *claims should be adjudicated based on substance rather than form;* (3) *pleadings should liberally construed so as not to defeat or undermine an injured employee's right to make a claim*; and (4) *technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction*.

(*Chicago Dogs*, *supra*, 90 Cal. Comp. Cases at pp. 838-839, citations omitted.)

**III.**

Now, we will consider the applicant's Petition.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd.* (*Pointer*) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (*Kramer*) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650]). Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Id*. at p. 1075 ["interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions,

are not 'final'"]; *Rymer*, *supra*, at p. 1180 ["[t]he term ['final'] does not include intermediate procedural orders or discovery orders"]; *Kramer*, *supra*, at p. 45 ["[t]he term ['final'] does not include intermediate procedural orders"].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

Here, the order taking the matter off calendar and findings regarding the petition for change of venue were pre-trial interlocutory orders that did not determine any substantive right or liability and did not determine a threshold issue. Accordingly, the order and the findings in the Minutes of Hearing are not "final" decisions. We will, therefore, dismiss applicant's Petition for Reconsideration and treat applicant's Petition as a Petition for Removal.

**IV.**

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd*. (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that significant prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).)

Here, and for the reasons discussed below, the decision of the PWCJ is not supported by an adequate record with respect to the findings relating to the applicant's request to change venue. Accordingly, we conclude that applicant has shown that significant prejudice and irreparable harm will result, and that applicant will not have an adequate remedy upon reconsideration. Thus, we grant the Petition as one for removal.

**V.**

In this matter, PWCJ determined that since applicant failed to a file a petition to change venue as required by section 5501.6, defendant was deprived of adequate due process including notice and an opportunity to be heard on applicant's request to change venue. (Report, at p. 6.) We disagree with this determination.

As early as January 10, 2025, with her properly filed and served DOR, applicant provided notice that she wanted a change of court venue. On September 15, 2025, on the record, defendant opposed the change of venue which is evidence that they received notice of the same. That is, even

though applicant's pleadings were informal, applicant has sufficiently complied with the petition requirement, and we believe that adequate notice and an opportunity to be heard has been provided to defendant. Upon return, the PWCJ should set the matter for trial on the issue of the change of venue, and all parties should be afforded the opportunity to make a record and be heard on the issue of change of venue.

Accordingly, we dismiss applicant's Petition as one for Reconsideration, grant applicant's Petition as one for Removal, rescind the order taking the matter off calendar, and return this matter to the trial level for further proceedings consistent with this decision.

For the foregoing reasons,

**IT IS ORDERED** that the applicant's Petition for Reconsideration of the Minutes of Hearing issued on January 2, 2026 is **DISMISSED**.

**IT IS ORDERED** that the applicant's Petition for Removal in response to the Minutes of Hearing issued on January 2, 2026 is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board that the Order Taking The Matter Off Calendar issued on January 2, 2026 is **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**March 16, 2026**

**SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.**

**MARUZELLA BOGNOLI**
**GALE SUTOW & ASSOCIATES**

**SL/abs**

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*