

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

IN RE: COVID-19 STATE OF EMERGENCY

EN BANC – NO. 5

Case No. MISC. NO. 264

Upon a unanimous vote of its members,¹ the Appeals Board issues this decision as a whole as an en banc decision.² (Lab. Code, § 115.)

On March 18, 2020, the Appeals Board issued our decision In Re: COVID-19 State of Emergency En Banc (Misc. No. 260) in response to the March 4, 2020 declaration of a state of emergency issued by the State of California's Governor, Gavin Newsom,³ and pursuant to WCAB Rule 10370. (Cal. Code Regs., tit. 8, § 10370.) The Appeals Board temporarily suspended specific WCAB Rules of Practice and Procedure in its decision including WCAB Rules 10755, 10756 and 10888. (Cal. Code Regs., tit. 8, former §§ 10562, 10563, 10563.1, now §§ 10755, 10756, 10888 (eff. Jan. 1, 2020).) Pursuant to this decision, the Rules permitting dismissal of an application or lien claim for failure to appear were suspended.

The Appeals Board hereby rescinds its suspension of WCAB Rules 10755, 10756 and 10888 effective as of the date of this decision.

Suspension of the other Rules as outlined in the March 18, 2020 In Re: COVID-19 State of Emergency En Banc (Misc. No. 260) remains in effect until further notice.⁴

¹ Commissioner Gaffney was unavailable and did not participate in this decision

² En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and WCJs. (Cal. Code Regs., tit. 8, former § 10341, now § 10325 (eff. Jan. 1, 2020); *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].) This en banc decision is also adopted as a precedent decision pursuant to Government Code section 11425.60(b).

³ Governor Newsom's proclamation may be accessed here: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>. (See Evid. Code, § 452(c).)

⁴ Except for the suspension of WCAB Rules 10961(a), 10962(c), 10990(f)(3)(E), and 10995(c)(3), which was rescinded with respect to petitions filed on or after September 1, 2020 pursuant to the July 16, 2020 In Re: COVID-19 State of Emergency En Banc – No. 4 (Misc. No. 263).

For the foregoing reasons,

IT IS SO ORDERED.

WORKERS' COMPENSATION APPEALS BOARD (EN BANC)

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 27, 2020



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

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