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8 BEFORE THE  
DEPARTMENT OF INDUSTRIAL RELATIONS  
9 DIVISION OF WORKERS' COMPENSATION  
10 STATE OF CALIFORNIA

11 In the Matter of the Suspension from  
Participation in the California Worker's  
12 Compensation System of:

**REQUEST FOR HEARING**  
[Labor Code § 139.21;  
Cal. Code Regs. tit. 8, § 9788.2]

13 **John Weston Mosby**  
3661 Maria Lane  
14 Carlsbad, CA 92008

15 Respondent.  
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17 **TO: STATE DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF**  
**WORKERS' COMPENSATION, OFFICE OF THE ADMINISTRATIVE**  
18 **DIRECTOR, AND ADMINISTRATIVE DIRECTOR GEORGE PARISOTTO:**

19 **REQUEST FOR HEARING**

20 Respondent, John Weston Mosby, (hereinafter "Respondent") hereby submit this timely  
21 request for a hearing to permit presentation of his defense to the allegations contained in the  
22 Notice of Provider Suspension – Worker's Compensation correspondence dated December 20,  
23 2023.

24 Respondent shall be represented by counsel in this matter as indicated upon the heading of  
25 this pleading. Copies of all correspondence and notices with reference to this matter are to be

1 directed to counsel as indicated.

2 **OBJECTIONS TO SUSPENSION AND LEGAL GROUNDS FOR HEARING**  
3 **PERTAINING TO LABOR CODE SECTION 139.21(A)(1)**

4 **1. RESPONDENT OBJECTS TO THE SUSPENSION LETTER ON THE**  
5 **FOLLOWING GROUNDS:**

6 A. The letter fails to state acts or omissions on which the Department of Industrial  
7 Relations, Division of Workers' Compensation ("Department") may proceed in that this  
8 proceeding is barred by the doctrine of laches. The suspension was not filed within a  
9 reasonable time after the Board learned or should have learned of the conduct alleged therein.  
10 Respondent has been prejudiced by this delay.

11 B. The letter fails to state acts or omissions on which the Department may proceed  
12 in that the facts alleged therein fail to state a cause of action or to establish grounds for adverse  
13 action concerning Respondent's privilege to participate in the workers' compensation system.

14 C. The Department is equitably estopped from proceeding upon the allegations in  
15 the suspension notice.

16 D. The suspension notice is so indefinite and uncertain that Respondent cannot  
17 identify the transaction(s) nor prepare a defense thereto.

18 E. The discipline sought for Respondent would constitute discriminatory application  
19 of the law in violation of the California and federal Constitutional guarantees of equal  
20 protection of the law.

21 **THIS REQUEST FOR HEARING IS TIMELY IF FILED BY JANUARY 4, 2024**

22 Upon written notice of the suspension pursuant to Labor Code section 139.21, a  
23 practitioner or provider may request a hearing within ten (10) days from the date the notice is  
24 sent by the administrative director to the provider. (Lab. Code § 139.21, subd. (b)(2); see also  
25 Cal. Code Regs. tit. 8, § 9788.2, subd. (a)) The date of the mailing of the notice of suspension  
to the provider shall constitute the official date of notice. (Cal. Code Regs. tit. 8, § 9788.6,

1 subd. (a)) A five day extension of time shall apply to any filing made by a provider in response  
2 to documents served by mail if the place of service by mail is in California. (Cal. Code Regs.  
3 tit. 8, § 9788.6, subd. (c)) The notice of suspension letter is dated December 20, 2023. Ten  
4 days from that day is December 30, 2023. An additional five days for mailing dictates that the  
5 request must be filed by January 4, 2024.

6 All documents shall be considered “filed” when the original is actually received by the  
7 Division of Workers’ Compensation. (Cal. Code Regs. tit. 8, § 9788.6, subd. (b))

8 Date: December 28, 2023

Rothschild Wishek & Sands LLP

9 By:

  
Adam J. Richards

Attorneys for Respondent, John Weston Mosby