

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

JAVIER ROMERO, *Applicant*

vs.

**15TH DDA, KERN COUNTY FAIR AND
CALIFORNIA FAIR SERVICES AUTHORITY, *Defendants***

**Adjudication Number: ADJ15277321
Bakersfield District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR REMOVAL
AND DECISION
AFTER REMOVAL**

We have considered the allegations of the Petition for Removal and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record and for the reasons state below, we will grant the Petition for Removal and return this matter to the WCJ for further proceedings consistent with this decision.

Applicant filed a Declaration of Readiness to Proceed (DOR) on April 27, 2022 requesting an "AOE/COE TRIAL" and noting that "QME HAS FOUND INDUSTRIAL CAUSATION ... CLAIM REMAINS DENIED." The matter came on calendar on June 30, 2022. At that time, the parties jointly requested the matter be set for trial and trial was set for August 17, 2022. (Minutes of Hearing (MOH), 6/30/22.) According to applicant's verified petition:

On or about 8/15/22, the defendants' attorney notified applicant's counsel by way of email that this Court had contacted his office to inform that the Trial would be rescheduled to 1/17/23 and would be held by virtual means rather than in person. On or about 8/18/22, the applicant's attorney received a Notice of Rescheduled Hearing indicating that the 8/17/22 AOE/COE Trial had in fact been rescheduled to 1/17/23 before Judge Johnson.

Labor Code¹ section 5502 states, in relevant part, that:

The administrative director shall establish a priority conference calendar for cases in which the employee is represented by an attorney or is or was employed by an illegally uninsured employer and the issues in dispute are employment or injury arising out of employment or in the course of employment. The conference shall be conducted by a workers' compensation administrative law judge within 30 days after the declaration of readiness to proceed. *If the dispute cannot be resolved at the conference, a trial shall be set as expeditiously as possible*, unless good cause is shown why discovery is not complete, in which case status conferences shall be held at regular intervals. The case shall be set for trial when discovery is complete, or when the workers' compensation administrative law judge determines that the parties have had sufficient time in which to complete reasonable discovery. A determination as to the rights of the parties shall be made and filed within 30 days after the trial.

(Lab. Code, § 5502(c), emphasis added.)

It is not clear from the WCJ's report whether January 17, 2023 is the most expeditious trial date available. Accordingly, we are granting removal and returning this matter to the WCJ for the scheduling of the trial as expeditiously as possible.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal is **GRANTED**.

¹ All further statutory references are to the Labor Code, unless otherwise noted.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that this matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 31, 2022

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

**JAVIER ROMERO
JAMIE ADLER
NATHAN MCMURRY**

PAG/acw

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