

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

ALFRED MARTIN, *Applicant*

vs.

**STATE OF CALIFORNIA,
DEPT OF CORRECTIONS INMATE CLAIMS,
LEGALLY UNINSURED;
STATE COMPENSATION INSURANCE FUND/
STATE CONTRACT SERVICES,
ADJUSTING AGENCY, *Defendants***

**Adjudication Numbers: ADJ9898563 ADJ10657938
Sacramento District Office**

**OPINION AND ORDER
DENYING PETITION FOR
DISQUALIFICATION**

We have considered the allegations of the Petition for Disqualification 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 stated in the WCJ's Report, which we adopt and incorporate, we will deny the Petition for Disqualification.

Labor Code section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has "formed or expressed an unqualified opinion or belief as to the merits of the action" (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated "[t]he existence of a state of mind ... evincing enmity against or bias toward either party" (Code Civ. Proc., § 641(g)).

We observe that even if detailed and verified allegations of fact have been made, it is settled law that a WCJ is not subject to disqualification under section 641(f) if, prior to rendering a decision, the WCJ expresses an opinion regarding a legal or factual issue but the petitioner fails to show that this opinion is a fixed one that could not be changed upon the production of evidence and the presentation of arguments at or after further hearing. (*Taylor v. I.A.C. (Thomas)* (1940))

38 Cal.App.2d 75, 79-80 [5 Cal.Comp.Cases 61].)¹ Moreover, even if the WCJ expresses an unqualified opinion on the merits, the WCJ is not subject to disqualification under section 641(f) if that opinion is “based upon the evidence then before [the WCJ] and upon the [WCJ]’s conception of the law as applied to such evidence.” (*Id.*; cf. *Kreling v. Superior Court* (1944) 25 Cal.2d 305, 312 [“It is [a judge]’s duty to consider and pass upon the evidence produced before [them], and when the evidence is in conflict, to resolve that conflict in favor of the party whose evidence outweighs that of the opposing party.”].)

In addition, it is “well settled ... that the expressions of opinion uttered by a judge, in what [they] conceive[] to be a discharge of [their] official duties, are not evidence of bias or prejudice” under section 641(g) (*Kreling, supra*, 25 Cal.2d at pp. 310-311; accord: *Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 400) and that “[e]rroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review” (*McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11; accord: *Mackie, supra*, 154 Cal.App.2d at p. 400). Similarly, “when the state of mind of the trial judge appears to be adverse to one of the parties but is based upon actual observance of the witnesses and the evidence given during the trial of an action, it does not amount to that prejudice against a litigant which disqualifies” the judge under section 641(g). (*Kreling, supra*, 25 Cal.2d at p. 312; see also *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1219 [“When making a ruling, a judge interprets the evidence, weighs credibility, and makes findings. In doing so, the judge necessarily makes and expresses determinations in favor of and against parties. How could it be otherwise? We will not hold that every statement a judge makes to explain [their] reasons for ruling against a party constitutes evidence of judicial bias.”].) Under no circumstances may a party’s unilateral and subjective perception of bias afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310-1311 (Significant Panel Decision).)

Under WCAB Rule 10964 (Cal. Code Regs., tit. 8, § 10964), supplemental pleadings must be filed with permission by the Appeals Board. Here, applicant did not seek permission to file his supplemental pleading on May 18, 2026; however, we have accepted and considered it.

Accordingly, we deny the Petition for Disqualification.

¹ Overruled on other grounds in *Lumbermen’s Mut. Cas. Co. v. I.A.C. (Cacozza)* (1946) 29 Cal.2d 492, 499 [11 Cal.Comp.Cases 289].

For the foregoing reasons,

IT IS ORDERED that the Petition for Disqualification is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 8, 2026

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

**ALFRED MARTIN, IN PRO PER
STATE COMPENSATION INSURANCE FUND, LEGAL**

AS/mc

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

REPORT AND RECOMMENDATION
ON PETITION FOR DISQUALIFICATION
and NOTICE OF TRANSMISSION

1. Event occurred: 2/10/26
2. Identity of Petitioner: Applicant
3. Verification: The petition is verified
4. Timeliness: The petition is timely
5. Date Petition filed: 2/18/26
6. Petitioner alleges: that the WCJ is biased because she encouraged applicant to settle.

Applicant, now in pro per, filed a Petition for Disqualification on 2/18/2026. The Petition is skeletal and merely states, “I do not believe this judge can be impartial because she pressured me to accept an illegal rate.”

Applicant appeared before the undersigned when he was represented by counsel on 2/10/2026; the case was set for trial. Pursuant to the Pre Trial Conference Statement dated 12/11/2025, the parties stipulated that applicant sustained an industrial injury while working as an inmate laborer for the Department of Corrections on 4/29/2013 to his low back, neck, bilateral shoulders, bladder and bowel. The parties further stipulated that applicant’s average weekly wage at the time of injury was \$3.25 per week and that he was entitled to a temporary disability rate of \$182.29 per week. The issues for trial were applicant’s level of permanent disability, apportionment, and future medical care. Applicant argued that he was 100% disabled based upon a Kite analysis.

When the parties appeared at trial, applicant attorney and defense attorney informed the court that defendant was agreeable to stipulate to 100% permanent disability payable at the rate of \$182.29 per week. They explained that the rate was a typographical error as it exceeded the

minimum temporary disability rate allowable for an injury occurring in 2013¹. Labor Code §3370(a)(5) mandates that inmate laborer's temporary and permanent disability rates *shall* be taken at not more than the *minimum* rate as set forth in Labor Code §4453. The minimum rate for applicant's date of injury is \$160 per week. Nonetheless, defendant was agreeable to abide by the stipulation in the pre-trial conference statement.

Applicant attorney informed the defense attorney and the court that applicant was hesitant to agree to a 100% award at a rate of \$182.29 per week and requested that the parties discuss the matter together. The undersigned explained to the applicant that defendant's rarely agree to settlements at 100% permanent disability and that this would be at a rate that may be above what he was entitled to. Applicant explained that he had consulted artificial intelligence and believed that he could base his permanent disability rate upon his earning capacity per Labor Code §4453(c)(4). Applicant explained that he had an order from a WCJ from before he was incarcerated that was in connection to vocational rehabilitation that stated that he could obtain a job earning approximately \$20 per hour. It was explained to the applicant that this was not listed as an exhibit, he was not in possession of the order on the day of trial, and the parties had also stipulated to earnings.

¹ Permanent disability for a 100% award is payable at the temporary disability rate for the date of injury.

Taking into consideration all of the above, the undersigned did express to the applicant that this may be an advantageous settlement. Applicant requested time to think about it and thus the matter was continued to another date. Although the WCJ did express that it may be a favorable settlement for the applicant, at no time did anyone coerce the applicant into stipulating to “an illegal rate” nor was applicant coerced into settling his case; rather he was given a continuance to think about the decision. It is therefore recommended that the petition be denied.

NOTICE OF TRANSMISSION:

Pursuant to Labor Code, Section 5909, the parties and the appeals board are hereby notified that this matter has been transmitted to the appeals board on date set out below.

DATE: March 2, 2026

Darcy Kosta
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE