

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

**NOE VALENCIA, *Applicant***

**vs.**

**TRAFFIX DEVICES, INC.;;  
GREAT AMERICAN ASSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ10934327  
Anaheim District Office**

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

Applicant has filed a petition for removal from the Findings and Order issued on September 9, 2025, by the workers' compensation administrative law judge (WCJ), wherein the WCJ found that applicant did not present good cause to take the deposition of the claims adjuster and granted defendant's petition to quash the deposition subpoena.<sup>1</sup>

Applicant contends that the deposition of the adjuster is reasonably calculated to lead to the discovery of admissible evidence and is necessary to obtain evidence in support of applicant's petition for penalties and/or sanctions.

We have not received an Answer from defendant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal.

We have considered the allegations of the Petition for Removal and the contents of the WCJ's Report. Based on our review of the record we will grant removal and as our Decision After Removal, we will rescind the September 9, 2025 Findings and Order and substitute a new Findings of Fact and Order that denies defendant's petition to quash.

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<sup>1</sup> Applicant attached a multitude of documents to the petition in violation of WCAB Rule 10945(c). (Cal. Code Regs., tit. 8, § 10945(c).) Applicant's attorney is admonished to follow the rule in future filings and to cite exhibits already in the record, instead of attaching duplicate copies.

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 substantial 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, the WCJ ordered the deposition of the claims administrator quashed, which effectively precludes applicant from gathering discovery in support of her petition for penalties and/or sanctions. The order violates applicant's due process, which constitutes irreparable harm. Thus, removal is proper in this case.

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].) A fair hearing is "... one of 'the rudiments of fair play' assured to every litigant ... ." (*Id.* at 158.) As stated by the California Supreme Court in *Carstens v. Pillsbury* (1916) 172 Cal. 572, "[The] commission, ... must find facts and declare and enforce rights and liabilities, -- in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law." (*Id.* at 577.)

A fair hearing includes but is not limited 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 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.4 703, 710 [57 Cal.Comp.Cases 230].)

Here, applicant has alleged bad faith on the part of the adjuster. We do not see any evidence in the record where defendant has established that applicant is proceeding in bad faith. It appears that applicant has legitimate questions regarding the adjuster's duty to investigate. Applicant further has a due process right to depose the witnesses in this case. Accordingly, we will rescind the September 9, 2025 Findings and Order and substitute an order denying the petition to quash.

However, our analysis does not end there. Defendant filed a verified Petition to Quash that it produced as evidence, which appears to constitute a frivolous and/or bad faith filing.

Defendant's petition cites to the following case: "*Angie Ruiz v. Costco Wholesale*, 2015 Cal. Wrk. Comp. P.D. LEXIS 419". We cannot find any workers' compensation case with this caption.<sup>2</sup> The citation does not bring up the case cited. This case citation appears to have been fabricated.

Next, defendant's petition to quash contains the following passage with a quotation:

As noted in *Liberty Mutual Insurance Co. v. Superior Court* (1992) 10 Cal.App.4th 1282, 1289: "Where the gravamen of the lawsuit is that the plaintiff was unreasonably denied insurance benefits, the defending insurer's claims practices and procedures are not only relevant, but are the very heart of the case. On the other hand, where breach of the implied covenant is not at issue, the claims practices of the defendant insurer are not relevant."

(Defendant's Exhibit X, Petition to Quash, p. 4, lines 7-11.)

We cannot find this quotation anywhere in the case cited, or in any other published decision. A search for the above quotation on Lexis yielded no result. It appears that the above quotation may also be fabricated, which if true, would appear to constitute bad faith and/or frivolous conduct. Furthermore, we could not find support for defendant's position in the case cited. In *Liberty Mutual*, a party sought to depose the president of Liberty Mutual, to which the court correctly found that the party needed to show that the president had unique or superior knowledge to that of a lower-level employee. In fact, the *Liberty Mutual* case stands in opposite to defendant's petition, wherein the court states that it is ". . . very unusual for a court to prohibit the taking of a deposition altogether and absent extraordinary circumstances, such an order would likely be in error." (*Liberty Mutual Insurance Co. v. Superior Court* (1992) 10 Cal.App.4th 1282, 1288 (internal citations and quotations omitted).)

It appears defendant's petition to quash may have been filed in bad faith, which could warrant the imposition of sanctions and/or costs associated with the petition. However, and because this apparent conduct occurred at the trial level, and not directly before the Appeals Board, the more prudent procedure would be to return this matter to the trial level to determine precisely

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<sup>2</sup> A more general search of the internet appears to return a federal district court case with this caption, but it does not appear that the case is relevant to the issues raised.

what conduct has occurred and to take appropriate action. At a minimum, this apparent conduct appears to further warrant the deposition of the adjuster.

Lastly, we would admonish Lisa Peterson and the firm Michael Sullivan & Associates that the Appeals Board has recently seen a significant increase in the amount of what appears to be fabricated citations and fabricated quotations being filed in verified pleadings. Such fabrications are sanctionable. It does not matter how such fabrications are generated. It is the duty of the attorney to review all pleadings filed for accuracy. We do not expect to see any further fabricated citations or quotations in any further pleadings from the Michael Sullivan & Associates law firm.

Accordingly, we grant removal and as our Decision After Removal, we rescind the September 9, 2025 Findings and Order and substitute a new Findings of Fact and Order that denies defendant's petition to quash.

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Removal from the Findings and Order issued on September 9, 2025, by the WCJ is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board that the Findings and Order issued on September 9, 2025, by the WCJ is **RESCINDED**, with the following **SUBSTITUTED** therefor:

**IT IS ORDERED** that defendant's petition to quash the deposition of the adjuster is **DENIED**.

**IT IS FURTHER ORDERED** that this matter is **RETURNED** to the trial level for further proceedings.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

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



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

**December 4, 2025**

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

**NOE VALENCIA  
PEREZ LAW  
MICHAEL SULLIVAN LAW**

**EDL/mt**

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