

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

ATEFA SAMADI, *Applicant*

vs.

**AMAZON; AMERICAN ZURICH INSURANCE COMPANY, administered by
SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Numbers: ADJ16563992; ADJ15605011
Oakland District Office**

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

Applicant seeks reconsideration of the Joint Findings, Award and Orders (FA&O), issued by the workers' compensation administrative law judge (WCJ) on May 5, 2026, wherein the WCJ found in relevant part that applicant, while employed on December 8, 2021 (Case Number ADJ16563992), and October 27, 2021 (Case Number ADJ15615011), sustained injury arising out of and in the course of employment to the left elbow, left wrist, and left shoulder for Case Number ADJ16563992, and to the right shoulder, right elbow, right wrist for Case Number ADJ15605011; the injuries caused permanent disability of 22%, with the permanent disability attributable to the October 27, 2021 date of injury; and a reasonable attorney's fee of 10% of the permanent disability benefits to applicant's former attorney. The WCJ further ordered that "defendant is to withhold 15% of the permanent disability awarded herein for any potential attorney's fee."

Applicant seems to contend that the cases should not have been submitted for decision on May 1, 2026, discovery should continue to subpoena witnesses, including Agreed Medical Evaluator (AME) Pramila Gupta, M.D., and another trial should go forward to expose the allegedly fraudulent actions by the third party administrator and defense attorneys; the medical-legal reports by Dr. Gupta are altered and fake; applicant had an emergency situation on the day of trial, March 26, 2026, and she could not appear; and finally, the WCJ issued his decision without reviewing evidence possibly concerning "amended body part."

We received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be granted for the sole purpose of amending the decision to delete the order that 15% be withheld for potential additional attorney's fees, and that that decision be otherwise affirmed.

We have considered the allegations in the Petition, the Answer, and the contents of the Report with respect thereto.

Based on our review of the record, and as discussed below, we will grant applicant's Petition for Reconsideration, and we will rescind the WCJ's decision and we will order that the WCJ is disqualified.

BACKGROUND

We will briefly review the relevant facts.

Applicant sustained injury to right wrist, right elbow, and right shoulder, and claimed injury to various body parts,¹ while employed by defendant on October 7, 2021. (ADJ15605011)

Applicant sustained injury to left wrist, left elbow, and left shoulder while employed by defendant on December 8, 2021. (ADJ16563992)

On September 9, 2025, defendant filed a declaration of readiness to proceed to mandatory settlement conference on the issues of compensation rate; temporary disability; permanent disability; rehabilitation/SJDB; future medical treatment; and, other: penalty/sanctions. The matters were set for a mandatory settlement conference on November 12, 2025.

Applicant did not file any objection to the declaration of readiness to proceed.

On November 12, 2025, a pre-trial conference statement (PTCS) was filed, and the matters were set for an all day trial on March 26, 2026. The conference WCJ noted that applicant failed to object to the DOR, limited the issues for trial, and ordered that exhibits were to be filed and witnesses were to be identified by name at least 20 days before trial. (PTCS, November 12, 2025, at p. 8.) He further ordered that: "This new trial date is presumed to be in person. Any request to make it virtual should be filed in writing and addressed to Judge Griffin."

According to Communications in the Electronic Adjudication Management System (EAMS), a notice of hearing was served on all parties on February 2, 2026.

¹ On January 4, 2024, applicant filed an amended Application for Adjudication of Claim listing additional parts of body injured.

On March 12, 2026, by way of a letter to WCJ Griffin, defendant stated that:

Defendant objects to Applicant's request to appear remotely at the trial set on March 26.

The Pre-Trial Conference Statement indicates the trial is presumed to be in person and any request for a virtual appearance should be in writing and addressed to Your Honor. It is the undersigned's position that an email to the Information & Assistance Officer should not be seen as a sufficient request.

Given the history of the case and complexity of issues presented, it would be inappropriate for the trial to be conducted in anything but an in person format.

Defendant would be agreeable to a new trial date that accommodates Applicant's return to the United States.

Alternatively, Defendant would be agreeable to Applicant appearing remotely if the March 26 hearing date is to be used solely for the purpose of facilitating settlement discussions, framing issues for trial and entering of exhibits and then testimony and submission of the case occur at a later date when Applicant can appear in person.

At the end of the letter was a cc: to "Atefa Samadi," with no further information. The proof of service reflects that the letter was served on March 16, 2026, to applicant's former attorney and defendant's administrator Sedgwick, but it does not include applicant.

On March 19, 2026, but after the close of business, the WCJ's secretary sent an email to the parties that stated as follows:

Good afternoon—

Please be advised that the trial currently scheduled for March 26, 2026 before Judge Griffin will remain IN PERSON as no good cause was demonstrated otherwise.

There is no proof of service attached, and the email is not by or signed by the WCJ.

On March 26, 2026, applicant failed to appear at trial. The WCJ issued the Minutes of Hearing and Notice of Intent to Submit (MOH) on April 2, 2026. He stated that:

LET THE MINUTES REFLECT that we are proceeding without Applicant present. She did recently request to appear remotely, which was denied by this judge. She notified the Information and Assistance Officer that she would not be attending today's proceeding. Applicant was aware of the proceedings, and that her request to appear remotely was denied. The trial will proceed today and the court will issue a Notice of Intent to Submit the matter at the conclusion of today's proceedings.

(MOH, at p. 2:1-5.)

The WCJ provided applicant the right to object to the submission, showing good cause, within 20 days on the service of the Minutes of Hearing. (MOH, at pp. 6:24-7:3.)

Applicant filed an April 10, 2026 “Objection to Judge Jim Griffin’s Minute Order from April 1, 2026,” and an April 11, 2026 “Petition/Notice of Objection, Objection to Judge Jim Griffin’s Minute Order from April 1, 2026.”

On May 1, 2026, the WCJ acknowledged applicant’s timely objection, determined that the objection did not show good case, and issued an order submitting the matter for decision.

On May 5, 2026, the corresponding FA&O issued. It is from this decision that applicant seeks reconsideration.

DISCUSSION

I.

Former Labor Code section² 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in EAMS. Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on June 18, 2026, and 60 days from the date of transmission is August 17, 2026. This decision is issued by or on August 17, 2026, so that we have timely acted on the Petition as required by section 5909(a).

² All statutory references are to the Labor Code unless otherwise stated.

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on June 18, 2026, and the case was transmitted to the Appeals Board on June 18, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on June 18, 2026.

II.

Turning to the merits, we will first consider applicant's contention that the WCJ proceeded to trial in her absence.

In our en banc decision in *Perez v. Chicago Dogs* (2025) 90 Cal.Comp.Cases 830 (Appeals Board en banc) (*Chicago Dogs*), we stated that:

In conducting our preliminary review, we observe that in addition to our constitutional mandate to accomplish substantial justice, the following fundamental legal principles must guide us:

(A) Only the Appeals Board has statutory authority to establish procedures in workers' compensation proceedings and to promulgate rules.

(B) Parties have a due process right to a fair hearing and a determination based on the merits.

(C) In workers' compensation proceedings, pleadings are liberally construed and may be amended to conform to proof.

(*Id.* at p. 836.)

Exclusive statutory authority is granted by section 5500.3 to the Appeals Board to establish procedures, and in addition, the Appeals Board has statutory authority under sections 5307 and 5708 to promulgate regulations regarding the adjudicatory process. (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 836.)

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].) “Due process requires notice and a meaningful opportunity to present evidence in regards to the issues.” (*Rea v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [70 Cal.Comp.Cases 312]; see also *Fortich v. Workers' Comp. Appeals Bd.* (1991) 233 Cal.App.3d 1449, 1452-1454 [56 Cal.Comp.Cases 537].) 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 pp. 157-158 citing *Kaiser Co. v. I.A.C. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) As stated by the Court of Appeal:

A denial of due process to a party ordinarily compels annulment of the Board's decision only if it is reasonably probable that, absent the procedural error, the party would have attained a more favorable result. However, if the denial of due process prevents a party from having a fair hearing, the denial of due process is reversible per se.

(*Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd. (Pinkney)* (1994) 26 Cal.App.4th 789, 806 [59 Cal.Comp.Cases 461], citations omitted.)

It is the policy of the law to favor, whenever possible, a hearing on the merits. (*Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1205 [57 Cal.Comp.Cases 149]; see also *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478 (“when a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default.”) As we stated in *Chicago Dogs*: “This is particularly true in workers' compensation cases, where there is a constitutional mandate ‘to accomplish substantial justice in all cases.’” (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 837, quoting Cal. Const., art. XIV, § 4.)

Decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to “ensure substantial justice in all cases.” (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].)

In *Chicago Dogs*, we explained that: “in workers’ compensation proceedings, it is settled law that (1) pleadings may be informal (citations); (2) claims should be adjudicated based on substance rather than form (citations); (3) pleadings should liberally construed so as not to defeat or undermine an injured employee’s right to make a claim (citations); and (4) technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction (citations).” (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 839.) We then concluded that: “interpretation of our rules must necessarily incorporate California’s public policy in favor of adjudication of claims on their merits, rather than on the technical sufficiency of the pleadings.” (*Ibid.*) We noted that:

For example, WCAB Rule 10617 provides for considerable latitude in accepting nonstandard pleadings, so long as the pleadings contain “a combination of information sufficient to establish the case or cases to which the document relates or, if it is a case opening document, sufficient information to open an adjudication file.” (Cal. Code Regs., tit. 8, §10617(b).) Similarly, WCAB Rule 10517 specifies that pleadings are deemed amended to conform to the stipulations agreed to by the parties on the record or may be amended by the Appeals Board to conform to proof. (Cal. Code Regs., tit. 8, §10517.) Because an evidentiary record must be created to allow for appellate review, and to safeguard due process, a request for electronic testimony must not be denied without an opportunity to be heard. WCAB Rule 10515 specifically disallows “[d]emurrers, petitions for judgment on the pleadings and petitions for summary judgment.” (Cal. Code Regs., tit. 8, §10515.) The principles of liberal pleading and amendment of pleadings to conform to proof outlined above mean that any petition should be considered on its merits and not based on its title.

(*Id.* at pp. 839-840.)

WCAB Rule 10330 states in pertinent part that:

In any case that has been regularly assigned to a workers’ compensation judge, the workers’ compensation judge shall have full power, jurisdiction and authority to hear and determine all issues of fact and law presented and to issue any interim, interlocutory and final orders . . . Orders, findings, decisions and awards issued by a workers’ compensation judge shall be the orders, findings, decisions and awards of the Workers’ Compensation Appeals Board unless reconsideration is granted.

(Cal. Code Regs., tit. 8, § 10330.)

WCAB Rule 10803(a)(2) defines the record of proceedings as follows:

. . . the pleadings, minutes of hearing, summaries of evidence, certified transcripts, proofs of service, admitted evidence, exhibits identified but not admitted as

evidence, notices, petitions, briefs, findings, orders, decisions and awards, opinions on decision, reports and recommendations on petitions for reconsideration and/or removal, and the arbitrator's file, if any. Each of these documents is part of the record of proceedings, whether maintained in paper or electronic form. Documents that are in the adjudication file but have not been received or offered as evidence are not part of the record of proceedings.

(Cal. Code Regs., tit. 8, § 10803(a)(2).)

WCAB Rule 10816(a) states that: “If a party intends to appear electronically at any hearing, they shall file a petition showing good cause pursuant to rule 10510.” (Cal. Code Regs., tit. 8, § 10816(a).) WCAB Rule 10817(a), a party may also seek to have electronic witness testimony. (Cal. Code Regs., tit. 8, § 10817(a).)

Here, the conference WCJ ordered that any requests for a virtual trial should be in writing and addressed to WCJ Griffin. (See Cal. Code Regs., tit. 8, § 10815 [virtual hearings].) The issue before us, however, is applicant’s possible virtual appearance under WCAB Rule 10816(a) and applicant’s possible virtual testimony under WCAB Rule 10817(a). The record does not include such a request by applicant.

But in defendant’s March 12, 2026 letter, which we treat as a petition by defendant regarding virtual appearance and virtual testimony, defendant acknowledged receipt of such a request by applicant and asserted that it would agree to a continuance “that accommodates Applicant’s return to the United States” and that it would agree to a virtual appearance by applicant, but not to virtual testimony by applicant.

If the WCJ had decided to order a virtual appearance by applicant, but not virtual testimony by applicant, the WCJ could have approved it as a stipulation and a hearing may not have been required on the issue. (See Lab. Code, § 5702 [hearing to be set when a WCJ does not approve a stipulation].)

Yet, the sole action by the WCJ was to apparently instruct his secretary to send an email denying the request. Since the email is not one of the documents described in the definition of proceedings under WCAB 10803(a)(2),³ and it is not admitted evidence, the email technically should not be considered in our review.

³ Cal. Code Regs., tit. 8, § 10803(a)(2) [“pleadings, minutes of hearing, summaries of evidence, certified transcripts, proofs of service, admitted evidence, exhibits identified but not admitted as evidence, notices, petitions, briefs, findings, orders, decisions and awards, opinions on decision, reports and recommendations on petitions for reconsideration and/or removal, and the arbitrator’s file”]

Nonetheless, we discuss it here to instruct the WCJ and the parties. Until trial, the record contains nothing by the WCJ regarding a petition for virtual appearance and/or testimony. Despite the informality of our system, our rules do not provide for emails by a secretary in response to a petition, and it is axiomatic that such a response must be by the WCJ. (See Cal. Code Regs., tit. 8, § 10330; § 10832 [response to a petition is to issue an order or a notice of intention].).) Moreover, the action by the district office does not comply with section 5500.3(a), which states as relevant here that: “No district office of the appeals board or workers’ compensation administrative law judge shall require forms or procedures other than as established by the appeals board.” *It is fundamental to our system of jurisprudence that an email sent by a secretary, not signed by a WCJ, and with no proof of service is not an enforceable order of a WCJ and is not an enforceable order of the Appeals Board.*

Turning to the WCJ’s actions on the day of trial, the WCJ noted that applicant had made a request to virtually appear and that he had denied it. He made no order on the record and admitted no evidence as to the issue, and he did not refer to any pleadings or orders in the record.

As we explained in *Chicago Dogs, supra*, “a request on the record for electronic witness testimony at the beginning of the hearing, with an opportunity for any party to respond, satisfies the petition requirement and is sufficient to adjudicate the issue of electronic testimony. . . and [] the due process right to a fair hearing and a determination based on the merits is good cause to allow the electronic testimony of the witness. Therefore, when a witness is unable to appear in person, as a matter of due process, a request to testify electronically should be readily permitted.” (*Chicago Dogs, supra*, at p. 840, emphasis omitted.)

Thus, we must grant applicant’s Petition for Reconsideration and rescind the decision.

III.

Section 5311 provides that a WCJ may be disqualified upon any one or more of the grounds specified in Code of Civil Procedure section 641. (§ 5311.) Among the grounds for disqualification under section 641 are that the WCJ has “served as . . . a witness on any trial between the same parties” (Code Civ. Proc., § 641(d); “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)).

The WCJ's Report states as follows:

With respect to the decision to proceed remotely, this was done because of the prior history where applicant was able to appear in person at the Oakland WCAB, despite similar prior claims that she could not appear in person. Applicant was also specifically advised in the November 12, 2024 Order that if she wished to request an ADA accommodation to appear remotely, she was to follow the appropriate procedures with, if necessary, help from an Information and Assistance Officer. Furthermore, the November 12, 2024 Order documents that applicant failed to appear at prior expedited trial settings, and that she had refused to appear on camera at remote conference proceedings. Moreover, applicant was provided notice of the intent to submit this matter within 20 days of service of the Minutes of Hering and Summary of Evidence (MOH/SOE). Her April 10, 2026 Objection did not provide good cause not to submit the matter for decision. In fact, her Objection again states that she is in Canada due to housing issues, but the proof of service indicates that she mailed the Objection from Rancho Cordova, CA. In short, I remain convinced that submitting this matter for decision following the March 26, 2026 trial is the only way that this manner could reasonably be concluded.

Regarding her allegation that she is entitled to another trial to present exhibits and witnesses, there is no basis to her contention. She did not present any witnesses for trial, nor did she provide any evidence that she subpoenaed any witnesses for the March 26, 2026 trial. Additionally, many of the witnesses listed are either physicians, employees of the WCAB, defense counsel, or other individuals who are not listed by name. Furthermore, as set forth at p. 3 of the MOH/SOE, applicant did not file any trial exhibits, but instead appeared to use the exhibit pages to list her arguments.

(Report, at p. 4.)

No evidence of the above discussion about why applicant could not or did not appear in person is contained in the record. By this Report, the WCJ made himself a witness, which is potentially prohibited under Code of Civil Procedure 641(d). We again emphasize the importance of a record and the importance of complying with the WCAB Rules. For example, we note that with respect to the discussion of a possible Americans with Disabilities Act (ADA) accommodation, such requests and the procedures to obtain such accommodations are not before the WCAB, are not covered by the WCAB Rules, and should not be discussed in the record in any way. In addition, when the WCJ used language discussing applicant's claimed evidence, it appears to show an unqualified opinion as to the merits of the case and the existence of a state of mind evincing bias.

Thus, we will order that the WCJ is disqualified in these cases, and that the presiding WCJ shall separately appoint a new WCJ.

IV.

Finally, we admonish applicant for using offensive, inappropriate, and disrespectful language in her Petition for Reconsideration. (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, § 10421(b)(9)(B) [sanctionable conduct includes “using any language in any pleading or other document [...] [w]here the language or gesture impugns the integrity of the Workers’ Compensation Appeals Board or its commissioners, judges, or staff”].)

We wish to make clear that we are rescinding the FA&O and disqualifying the WCJ based on the due process considerations discussed within this opinion, and our actions should not be construed in any way as condoning applicant’s behavior.

Applicant is hereby warned that she is required to comply with all orders by a WCJ and all WCAB Rules, and that if she does not, she risks designation as a vexatious litigant under WCAB Rule 10430, including for “repeatedly engag[ing] in other tactics that are in bad faith, are frivolous or are solely intended to cause harassment or unnecessary delay.” (Cal Code Regs., tit. 8, § 10430(a)(2).)

V.

Accordingly, we grant applicant’s Petition for Reconsideration, rescind the FA&O, and order that the WCJ is disqualified.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Joint Findings, Award and Orders issued by the WCJ on May 5, 2026 is **RESCINDED**.

IT IS FURTHER ORDERED that on motion of the Workers' Compensation Appeals Board, that WCJ James Griffin is **DISQUALIFIED** from further proceedings in this matter and that the matter is **RETURNED** to the Presiding WCJ to assign a new WCJ for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 17, 2026

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

**ATEFA SAMADI
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN**

SL/abs

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