

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

**PAULA CASTILLO, *Applicant***

**vs.**

**ALL-RITE LEASING COMPANY, INC.;  
COMPWEST INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ19196196  
Santa Ana District Office**

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

Defendant has filed a petition for removal from the Minutes of Hearing issued on April 9, 2026, by the workers' compensation administrative law judge (WCJ), which converted an expedited hearing into a mandatory settlement conference (MSC) and continued the matter to a trial setting. The WCJ ordered the adjuster to appear in person on the day of trial. The WCJ did not complete a pre-trial conference statement (PTCS) on the date of the MSC, but instead instructed the parties to complete a PTCS and file it by the end of the next day.

Defendant contends that applicant improperly raised issues on the PTCS, including costs, sanctions, and penalties. Defendant further contends that the adjuster should be permitted to appear remotely.

We have not received an Answer from applicant. 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 order this matter to proceed to an MSC so that the WCJ may review the PTCS with the parties.

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).)

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.)

Pursuant to Labor Code, section 5502(d):

(2) The settlement conference shall be conducted by a workers' compensation administrative law judge or by a referee who is eligible to be a workers' compensation administrative law judge or eligible to be an arbitrator under Section 5270.5. At the mandatory settlement conference, the referee or workers' compensation administrative law judge shall have the authority to resolve the dispute, including the authority to approve a compromise and release or issue a stipulated finding and award, and **if the dispute cannot be resolved, to frame the issues and stipulations for trial.** The appeals board shall adopt any regulations needed to implement this subdivision. The presiding workers' compensation administrative law judge shall supervise settlement conference referees in the performance of their judicial functions under this subdivision.

(3) If the claim is not resolved at the mandatory settlement conference, the parties shall file a pretrial conference statement noting the specific issues in dispute, each party's proposed permanent disability rating, and listing the exhibits, and disclosing witnesses. **Discovery shall close on the date of the mandatory settlement conference. Evidence not disclosed or obtained thereafter shall not be admissible unless the proponent of the evidence can demonstrate that it was not available or could not**

**have been discovered by the exercise of due diligence prior to the settlement conference.**

(Emphasis added.) (§ 5502(d)(2), (3).)

The Labor Code requires the WCJ to frame the issues and stipulations for trial **at the MSC**. The parties are required to disclose all of their evidence at the MSC on the PTCS and submit the PTCS to the WCJ for a substantive review *on the day of the hearing, with the parties present*. The purpose of the statute is to avoid trial by surprise. Failure to follow section 5502 at the trial level not only violates the statute, but invites a host of errors that are easily avoidable. Furthermore, violating section 5502 violates the parties' right to due process to be notified of the issues upon which a trial is set.

Accordingly, we find that defendant's right to due process has been violated by setting the matter for trial without completing a PTCS on the day of the hearing and without the WCJ reviewing the PTCS with the parties.

As to the issue of the adjuster's testimony, upon return the WCJ may accept defendant's petition for removal as a petition to have the adjuster testify remotely. The WCJ may create a record and decide the request. (*Perez v. Chicago Dogs* (2025) 90 Cal. Comp. Cases 830, 838, (Appeals Board en banc).)

Accordingly, we grant removal and as our Decision After Removal, we will order this matter to proceed to an MSC so that the WCJ may review the PTCS with the parties.

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Removal from the Minutes of Hearing issued on April 9, 2026, by the WCJ is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board that this matter is to be reset for a mandatory settlement conference.

**WORKERS' COMPENSATION APPEALS BOARD**

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

**I CONCUR,**

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

**/s/ PAUL F. KELLY, COMMISSIONER**



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

**June 29, 2026**

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

**PAULA CASTILLO  
REAL HERNANDEZ  
STUART NAGEL  
3D MEDICAL DIAGNOSTICS  
ARZ LEIN SOLUTIONS  
EDD SDI**

**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*