


THE BLACKLETTER

on

CALIFORNIA WORKERS' COMPENSATION



*every rule in the corpus, in the courts' own words —
nothing more, nothing less, nothing of ours*

compiled under the direction of

SEAN RICHARD WEBER

Nathan Howser, Esq. · contributing author & editor

named in memory of Richard Weber · 1943–1999

2026 EDITION · CORPUS: 9 DECISIONS · WORKCOMPBENEFITS.ORG/LAW

for

RICHARD WEBER

1943 – 1999



*his name is on the engine,
his birthdays are on its filings,
and this book is his shelf.*

Cite: *The Blackletter on California Workers' Compensation* § __ (2026). Short form: *Blackletter* § __. The section number is the primary pinpoint; each edition is also paginated, and a pin cite may add the edition page: *Blackletter* § 19.3, p. 52 (2026). Page numbers are permanent within an edition (editions are frozen); a new edition may repaginate, which is why the year binds the page.

Citing the corpus. Decisions of the Appeals Board are cited to the official reporter where published (e.g., *Vazquez*, 90 Cal.Comp.Cases 514, en banc), the Board's case number beside it. Unpublished reporter cites are marked pending — never invented.

The census rule. This edition contains only the law stated in its corpus, quoted verbatim. The corpus of this printing is nine en banc decisions — every en banc decision of the Appeals Board for 2025 and 2026 to date, together with *Coldiron I & II* (2002), *Maxham* (2017), *Suon* (2018), and *Dennis* (2020): *Gaines v. ABM Aviation, Inc.* (2026) ADJ20216367 et al., 30 pages; *DiFusco v. Hands On Spa* (2025) ADJ7445107, 90 Cal.Comp.Cases 1007, 17 pages; *Perez v. Chicago Dogs* (2025) ADJ16597333 (order granting reconsideration; final decision deferred), 16 pages; *Vazquez v. Renteria* (2025) ADJ11017003, 90 Cal.Comp.Cases 514 (decision after reconsideration; holdings prospective), 17 pages; *Dennis v. State of California* (2020) ADJ9346293, 85 Cal.Comp.Cases 389 (decision after reconsideration), 22 pages; *Coldiron v. Compuware* [*Coldiron I & II*] (2002) SRO 0088351, 67 Cal.Comp.Cases 289 and 1466 (NOI and decision after reconsideration; image-proofread transcripts), 16 pages; *Maxham* (2017) 82 Cal.Comp.Cases 136, 15 pages; and *Suon* (2018) 83 Cal.Comp.Cases 1803, 20 pages — each retrieved from dir.ca.gov and machine-verified. Statutes, regulations, and earlier decisions appear only as, and exactly as, those decisions quote them. **If it is not in the corpus, it is not in the book.** Sections awaiting authority are marked reserved and are blank.

Weight. En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and workers' compensation administrative law judges (see § 1.1). With one exception, the grades in this printing are • settled on that basis, within the four corners of the corpus; § 20.3 is graded ◐ preliminary while the *Perez* final decision remains deferred.

Section headings, grades, and cross-references are finding aids; the quotations are the book. Free to read, always. Not legal advice; not a government publication. Free official help for injured workers: DWC Information & Assistance, 1-800-736-7401, dir.ca.gov. Corrections: /about. The engine: U.S. Pat. App. No. 19/782,460 (patent pending). The machinery is patent-pending; the law is free.

This printing, as a single PDF:

[the-blackletter-on-california-workers-compensation-2026.pdf](#)

Preface

Every treatise before this one asked its reader to trust an author. The author read the cases, decided what mattered, and restated the law in the author's words — and the reader's confidence rested, finally, on the author's care. This book makes a different offer. It contains no restatements. Every sentence of law in its body is a court's sentence, quoted verbatim, checked by machine against the source it came from, and shelved at the address where the doctrine lives. Where the courts have not spoken, the page says so and stands blank. Where they disagree, the fork is shown, not smoothed.

The book is compiled by a census, not a selection: every rule-stating line of every decision in its corpus is here, and the corpus of each printing is stated on its edition page. A blank chapter is not unfinished work — it is an honest report that the corpus has not yet reached that shelf. As the corpus grows, the book grows, in public, with its changelog, and nothing once printed is ever silently altered: revisions supersede; they do not erase.

My part is the arrangement, the apparatus, and the promise that the machine checked every quotation — a compiler's part, not an author's. The law belongs to the courts that wrote it and to the workers and employers it governs. It is presented here free, to everyone, because the law of California should cost nothing to read.

S.R.W.

Santa Clarita, California

2026

How to Use This Book

Citing. Cite as *The Blackletter on California Workers' Compensation* § 19.3 (2026); short form *Blackletter* § 19.3. The year is the edition. The section number is the primary pinpoint; each frozen edition is also paginated, so a pin cite may add the page: *Blackletter* § 19.3, p. 52 (2026). Section numbers are permanent: once published, a number never changes meaning.

Reading a section. The quotations are the law and cite as the treatise. Signed chapter overviews are citable as attributed commentary ([Author], *Overview, Blackletter* ch. 19 (2026)); practice notes cite as practice commentary (PN 19.3). Headings, grades, and cross-references are finding aids. Plain-language mirror pages are the one non-citable surface — they simplify for access; the professional section controls. A boxed **HOLDING** is law made by the corpus decision itself, marked with its weight (en banc decisions bind all panels and judges; see § 1.1). Each section's meter line shows three verified facts: the settledness grade (● settled · ◐ split · ○ open/commentary), the authority-status check with its date, and the verification date. **Verification means the quoted text matches its source as of that date. It is not a warranty that the authority remains good law** — always confirm currency before filing.

Finding things. Enter by the Contents, by the Table of Cases (G), the Table of Statutes & Regulations (H), or the Index (I) — all generated from the corpus itself. A chapter marked *reserved* is blank because the corpus has not yet reached it; that is a statement about the corpus, never about the law.

What this book is not. It is legal information, not legal advice, and reading it creates no attorney-client relationship. It is not a government publication. Errors, when found, are recorded publicly and promptly at /about — a book that shows its corrections is asking to be checked, and should be.

A Note on the Engine

This book is assembled, checked, and kept current by a machine method called **RICHARD WEBER** — *Recursive Intelligence through Cascading Hierarchical Architecture with Reduction to Dynamic Work Enhancement via Bidirectional Engagement and Recursion* — the subject of U.S. Patent Application No. 19/782,460 (patent pending), named for the man on the dedication page and filed on his birthday.

In plain terms, the method reads every decision in sequence through configured stages that check one another's work; a later stage may formally dispute an earlier stage's extraction — naming it, quoting it verbatim — and the disputed stage must answer; after the whole corpus is read, the work is re-examined in light of everything learned. Every quotation printed here passed through that discipline and was machine-checked, character by character, against its source. When the machine cannot verify something, it does not guess — it refuses, and the page says so.

The machinery is patent-pending; the law is free. The patent covers the reading and verification machinery — never the law itself, which no one owns. This book may be read, quoted, and cited by anyone, forever, without charge. Use of its text to train machine-learning models is prohibited; preservation copying by libraries and archives is welcomed and licensed.

VOLUME ONE · THE SUBSTANTIVE LAW

CONSULT THE CORPUS

search every quotation...

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CHAPTER 1 · THE SYSTEM

§ 1.1 The Weight of En Banc Decisions

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 1.1, p. 1 (2026) ·

“En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and workers’ compensation administrative law judges.”

(*Gaines v. ABM Aviation, Inc.* (2026) ADJ20216367 *et al.* (Appeals Bd. *en banc*), fn. 1, citing Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers’ Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5; *Gee v. Workers’ Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6, at p. 1.)

“This en banc decision is also adopted as a precedent decision pursuant to Government Code section 11425.60(b).”

(*Gaines, supra*, at p. 1, fn. 1.)

“En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and workers’ compensation administrative judges.”

(*DiFusco v. Hands On Spa* (2025) ADJ7445107, 90 Cal.Comp.Cases 1007 (Appeals Bd. *en banc*), fn. 2 [“administrative judges” *so in original*], citing Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers’ Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5; *Gee v. Workers’ Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6; accord *Gaines, supra*, at p. 1, fn. 1; *Perez v. Chicago Dogs* (2025) ADJ16597333 (Appeals Bd. *en banc*), fn. 1; *Vazquez v. Renteria* (2025) ADJ11017003, 90 Cal.Comp.Cases 514 (Appeals Bd. *en banc*), fn. 2 [citing Cal. Code Regs., tit. 8, §§ 10305(k), 10325(a)].)

“Sections 111 and 115 grant statutory authority to the Appeals Board to issue en banc decisions.”

(*DiFusco, supra*, at p. 8.)

“Government Code section 11425.60(b) provides additional authority for the WCAB to designate all or part of a decision “that contains a signification legal or policy determination of general application that is likely to recur” as a “precedent decision,” and our en banc decisions are routinely adopted as precedent decisions.”

(*DiFusco, supra*, at p. 8, fn. 6 [*so in original*].)

“Upon a unanimous vote of its members, the Appeals Board issues this decision as an en banc decision.”

(*Gaines, supra*, at p. 1, citing Lab. Code, § 115.)

“Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs.”

(Vazquez v. Renteria (2025) ADJ11017003, 90 Cal.Comp.Cases 514 (Appeals Bd. en banc), at p. 2, fn. 5, citing Gee, supra, 96 Cal.App.4th at p. 1425, fn. 6.)

“However, panel decisions are citeable authority and the Appeals Board may consider these decisions to the extent that their reasoning is found persuasive, particularly on issues of contemporaneous administrative construction of statutory language.”

(Vazquez, supra, at p. 2, fn. 5, citing Guitron v. Santa Fe Extruders (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Bd. en banc); Griffith v. Workers’ Comp. Appeals Bd. (1989) 209 Cal.App.3d 1260, 1264, fn. 2.)

“We recommend that practitioners proceed with caution when citing to a panel decision and verify its subsequent history.”

(Vazquez, supra, at p. 2, fn. 5.)

“A California Compensation Cases digest of a “writ denied” case is also not binding precedent.”

(Dennis v. State of California (2020) ADJ9346293, 85 Cal.Comp.Cases 389 (Appeals Bd. en banc), at p. 8, fn. 11, citing MacDonald v. Western Asbestos Co. (1982) 47 Cal.Comp.Cases 365, 366 (Appeals Bd. en banc).)

“After granting reconsideration, because of the important legal issue presented, and in order to secure uniformity of decision in the future, the Chairman of the Board, upon a majority vote of its members, has reassigned this case to the board as a whole for an en banc decision. (Lab. Code, §115.)”

(Coldiron v. Compuware Corp. (2002) SRO 0088351, 67 Cal.Comp.Cases 289 (Appeals Bd. en banc) [Coldiron I] [the 2002 formulation: majority vote; the modern practice recites a unanimous vote — compare the Gaines quotation above], at p. 2.)

“The Board’s en banc decision are binding precedent on all Board panels and WCJs. (WCAB/DWC Policy & Procedure Manual, Index No. 6.16.1.)”

(Coldiron I, supra, fn. 2 [“decision are” so in original], citing WCAB/DWC Policy & Procedure Manual, Index No. 6.16.1 — the pre-Rule 10325 source of the binding rule, at p. 2.)

“The Board’s en banc decisions under Labor Code section 115 are binding precedent on all Board panels and WCJs. (*Gee v. Workers’ Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425, fn.6 [67 Cal. Comp. Cases 236, 239, fn. 6; WCAB/DWC Policy & Procedure Manual, Index No. 6.16.1.]”

(*Coldiron v. Compuware Corp.* (2002) SRO 0088351, 67 Cal.Comp.Cases 1466 (*Appeals Bd. en banc*) [*Coldiron II*], fn. 1 — eight months after *Coldiron I*, the binding rule now rests on § 115 and *Gee*; the unclosed bracket is the original’s, at p. 2.)

Cross-references: §§ 1.2–1.5, 16.2, 17.1, 19.1–19.6, 20.1–20.2, 21.8–21.10, 22.1, 24.6, 26.1, 26.6 (the corpus’s en banc rules). Remainder of chapter: *reserved*.

§ 1.2 En Banc Precedent: Stare Decisis; No Supersession by Regulation

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 1.2, p. 3 (2026) ·

“Appeals Board en banc decisions have the same legal effect as published appellate opinions.”

(*DiFusco, supra, at p. 8, citing Signature Fruit Co. v. Workers’ Comp. Appeals Bd. (Ochoa)* (2006) 142 Cal.App.4th 790, 796, fn. 2.)

“[E]n banc decisions “are binding on panels of the Appeals Board and workers’ compensation judges as legal precedent under the principle of stare decisis.””

(*DiFusco, supra, at p. 8, quoting Cal. Code Regs., tit. 8, § 10325.*)

“The principle of stare decisis means that precedent-setting court opinions may only be overruled by the same court, or a higher court. Hence, an Appeals Board en banc opinion must be followed by panels of the Appeals Board and by all WCJs until rescinded, altered, or overruled by the Appeals Board en banc, overruled by a Court of Appeal or the California Supreme Court pursuant to sections 5950 through 5956, or rendered inapplicable by a legislative enactment.”

(*DiFusco, supra, at p. 8.*)

“[E]n banc opinions of the Appeals Board are not repealed “by implication” and thus, an en banc opinion cannot be “superseded” by the enactment of a regulation.”

(*DiFusco, supra, at p. 8, citing People v. Bouzas* (1991) 53 Cal.3d 467, 480.)

“There is simply no valid legal authority for the contention that by enacting a rule, we have superseded one of our en banc decisions by operation of law.”

(*DiFusco, supra, at p. 13.*)

“[W]e emphasize that if changes are made to an existing rule, we must follow the procedures of the rule-making process.”

(DiFusco, supra, at p. 13.)

“[W]CJs and all parties before the Appeals Board must follow the plain language of the regulations as written, and, at the same time, abide by our en banc decisions. Unless otherwise stated, it is presumed that the Appeals Board is aware of the statutory and decisional law, including its own en bancs, when it enacts regulations, and the appropriate time to raise concerns about a particular rule and its impact, whether intended or unintended, is when the Appeals Board is engaged in rule making.”

(DiFusco, supra, at p. 13, fn. 10.)

“[A]n en banc opinion issued by the Appeals Board is binding legal precedent, unaffected by the regulatory process, and continues to be binding legal precedent unless the Appeals Board explicitly rescinds it en banc, it is overruled by a higher Court, or it is rendered no longer applicable by legislative changes.”

(DiFusco, supra, at p. 8.)

HOLDING No. 1 · DIFUSCO (2025) · EN BANC · BINDING · at p. 2

“All en banc decisions are binding on panels of the Appeals Board and WCJs, and the binding en banc decisions in *Coldiron I* and *Coldiron II* require disclosure of any entities liable for payment and any insurance policies that impact liability for payment.”

“The California Supreme Court explained in *People v. Bouzas* that in interpreting legislation, “repeal by implication is disfavored...””

(DiFusco, supra, at p. 8, quoting People v. Bouzas (1991) 53 Cal.3d 467, 480.)

Cross-references: § 1.1 (weight of en banc decisions); § 16.2 (the *Coldiron* disclosures); § 17.1 (discovery); § 22.1 (policy provisions affecting liability).

§ 1.3 The Appeals Board as Court; Rulemaking Authority and Its Limits

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 1.3, p. 5 (2026) ·

“The Appeals Board is a constitutional court vested with judicial powers.”

(*DiFusco, supra, at p. 7, citing Lab. Code, §§ 111(a), 52, 5300, 5301, 5302; McHugh v. Santa Monica Rent Control Bd. (1989) 49 Cal.3d 348, 355–356; Bankers Indemnity Ins. Co. v. Industrial Acc. Com. (Merzoian) (1935) 4 Cal.2d 89, 97.*)

“For over 100 years, it has been repeatedly held that the Appeals Board (and its predecessor, the Industrial Accident Commission), exercises a portion of the judicial powers of the State of California and is, in legal effect, a court.”

(*DiFusco, supra, at p. 7, citing Bankers Indemnity Ins. Co. v. Industrial Acc. Com. (Merzoian) (1935) 4 Cal.2d 89, 97; Western Metal Supply Co. v. Pillsbury (Mason) (1916) 172 Cal. 407, 411–412; Kaiser Co. v. Industrial Acc. Com. (Baskin) (1952) 109 Cal.App.2d 54, 58–59.*)

“Thus, the Appeals Board must follow a statute in the Labor Code as written and enacted by the Legislature, unless or until the Legislature changes a statute or a higher court issues an opinion as to its application.”

(*DiFusco, supra, at p. 11.*)

“In comparison, regulations are enacted by state agencies under statutory authority granted by an enabling statute, to implement and enforce a statute, after public notice and an opportunity for public comment.”

(*DiFusco, supra, at p. 11, citing Tidewater Marine Western, Inc. v. Bradshaw (1996) 14 Cal.4th 557, 568; Department of Corrections & Rehabilitation v. Workers’ Comp. Appeals Bd. (2008) 166 Cal.App.4th 911, 917.*)

“Section 5708 authorizes the Appeals Board to promulgate regulations regarding the adjudicatory process, and section 5307 describes the mandatory procedures for adopting, amending or rescinding regulations, including the requirement for a public hearing.”

(*DiFusco, supra, at p. 12, citing Lab. Code, §§ 5307, 5708.*)

“The WCAB falls within a statutory exclusion because its adjudicative proceedings are expressly governed by the Labor Code and by its own rules of practice and procedures and because it is not bound by any other statutory rules of procedure.”

(*DiFusco, supra, at p. 11, fn. 8, citing Lab. Code, §§ 5708, 5307.*)

“While the WCAB is empowered to enact rules or procedures under the proper circumstances, it may not change legislation that is within the plenary power of the Legislature under article XIV, section 4 of the California Constitution.”

(Rea v. Workers’ Comp. Appeals Bd. (Milbauer) (2005) 127 Cal.App.4th 625, 644, as quoted in DiFusco, supra, at p. 11.)

“(a) The appeals board shall establish uniform district office procedures, uniform forms, and uniform time of court settings for all district offices of the appeals board. 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. A workers’ compensation administrative law judge who violates this section may be subject to disciplinary proceedings. (b) The appeals board shall establish uniform court procedures and uniform forms for all other proceedings of the appeals board.”

(Lab. Code, § 5500.3, as quoted in DiFusco, supra, at p. 11.)

“While a regulation enacted by the Appeals Board may become invalid when an appellate court determines that it contradicts a statute, if the Appeals Board determines that a regulation is no longer valid or is no longer applicable as written, the Appeals Board must follow the same procedures used to enact the regulation, including the public hearing requirement, prior to the amendment or repeal of the regulation.”

(DiFusco, supra, at p. 12, citing Lab. Code, § 5307; Milbauer, supra, 127 Cal.App.4th 625.)

HOLDING No. 2 · DIFUSCO (2025) · EN BANC · BINDING · at p. 2

“Only the Appeals Board is statutorily authorized to issue regulations for adjudication for workers’ compensation proceedings, and WCAB Rules 10390, 10400 and 10401 require that parties, their representatives, and their insurance companies be fully identified.”

“The Administrative Procedures Act (APA) applies to all state “agencies” (see Gov. Code, § 11500), except as otherwise expressly provided by statute.”

(DiFusco, supra, at p. 11, fn. 8, citing Gov. Code, §§ 11410.20(a), 11415.10(a).)

“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, as quoted in Perez v. Chicago Dogs (2025) ADJ16597333 (Appeals Bd. en banc), at p. 8.)

“Only the Appeals Board has statutory authority to establish procedures in workers’ compensation proceedings and to promulgate rules.”

(*Perez, supra, at p. 6.*)

“In addition to this statutory authority granted only to the Appeals Board, the Appeals Board has statutory authority under sections 5307 and 5708 to promulgate regulations regarding the adjudicatory process.”

(*Perez, supra, at p. 6, citing Lab. Code, §§ 5307, 5708.*)

“The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers’ compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party ... * * * The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. ... * * * Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.”

(*Cal. Const., art. XIV, § 4, as quoted in Dennis v. State of California (2020) ADJ9346293, 85 Cal.Comp.Cases 389, 396 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 7.*)

“Under this constitutional grant of plenary power to the Legislature, the California Workers’ Compensation Act (§ 3200 et seq.) was enacted “to establish a complete and exclusive system of workers’ compensation including ‘full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State’”

(*Dennis, supra, 85 Cal.Comp.Cases at p. 396 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 8.*)

“Thus, under the grant of authority in the California Constitution, the Appeals Board operates as an appellate court of limited jurisdiction that reviews and decides appeals from decisions issued by workers’ compensation administrative law judges.”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8.)

“The Workers’ Compensation Act is found in Divisions 4 and 4.5 of the Labor Code, as administered and enforced by the Division of Workers’ Compensation under the control of the Administrative Director, “except as to those duties, powers, jurisdiction, responsibilities, and purposes as are specifically vested in” the Appeals Board.”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8, quoting Lab. Code, § 111.; also printed at § 1.5.) · same rule printed at § 1.5

“The Appeals Board exercises all judicial powers vested in it by the Labor Code and may do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon it by the Labor Code.”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8, citing Lab. Code, §§ 111, 133.)

“[T]he major function of the Appeals Board is regulation of the adjudication process by adopting rules of practice and procedure and issuing en banc opinions”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8, citing Lab. Code, §§ 5307, 115.)

“The Administrative Director “exercise[s] the powers of the head of a department ... [including] supervision of, and responsibility for, personnel, and the coordination of the work of the division. ...”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8, quoting Lab. Code, § 111; see Lab. Code, §§ 123, 127, 133.)

“The Appeals Board has delegated to the workers’ compensation administrative law judges at the trial level all necessary judicial power and duties to hear and make decisions for the Appeals Board in initial trials and proceedings.”

(Dennis v. State of California (2020) ADJ9346293, 85 Cal.Comp.Cases 389 (Appeals Bd. en banc), at p. 7, fn. 10, citing Lab. Code, §§ 5309, 5310, 5313.)

“After the Appeals Board issues a final decision following a petition for reconsideration, an aggrieved party may file a petition for writ of review in the appropriate California District Court of Appeal. (§ 5950.) The appellate court may not hold a trial de novo, or take evidence, or exercise its independent judgment on the evidence. (§ 5952.) It is limited to determining the lawfulness of the Appeals Board’s decision. (§ 5951.)”

(Dennis, supra, fn. 10, citing Lab. Code, §§ 5950, 5951, 5952, at p. 7.)

“The Labor Code expressly vests the Appeals Board with the “power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon it under [the Labor Code].” (Lab. Code, § 133; see also Lab. Code, §§ 5300, 5301 [the Appeals Board is vested with full power, authority and jurisdiction to try and determine any matter under Division 4 of the Labor Code].) The Appeals Board’s judicial powers extend to discovery disputes.”

(Suon v. California Dairies (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc), citing Lab. Code, §§ 133, 5300, 5301, at p. 12.)

Cross-references: § 1.5 (the test of regulatory validity); § 1.2 (en banc precedent); § 16.2 (identification requirements in practice); § 17.1 (evidence informality: § 5708); § 1.5 (the test of regulatory validity).

§ 1.4 Statutory Construction; Prospective Application of New Interpretations

• settled · en banc; Supreme Court as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 1.4, p. 9 (2026) ·

“Statutory analysis begins by examining “the words themselves because the statutory language is generally the most reliable indicator of legislative intent ... The words of the statute should be given their ordinary and usual meaning and should be construed in their statutory context.””

(Fitch v. Select Products Co. (2005) 36 Cal.4th 812, 818, quoting Hassan v. Mercy American River Hospital (2003) 31 Cal.4th 709, 715–716, as quoted in Vazquez, supra, at p. 10.)

“When the words of a statute are clear, we must follow their plain meaning.”

(Vazquez, supra, at p. 10, citing Torres v. Parkhouse Tire Service, Inc. (2001) 26 Cal.4th 995, 1003.)

“If the plain, commonsense meaning of a statute’s words is unambiguous, the plain meaning controls.”

(Vazquez, supra, at p. 10, citing In re Jennings (2004) 34 Cal.4th 254, 263.)

“The Appeals Board has long held that new interpretations of statute are applied prospectively.”

(Vazquez, supra, at p. 14.)

“In workers’ compensation cases, it is not uncommon to provide that newly stated judicial rules or newly stated judicial interpretations of statutes shall be applied prospectively only. Such a declaration of prospective application is made primarily to prevent a landslide of reopenings in previously adjudicated workers’ compensation cases, which would burden the workers’ compensation system and result in unfairness to those parties who had relied on a different understanding of law or had accepted a different application of the law; a declaration of prospective application may also be made to harmonize statutory provisions. (Citations.) Although decisions regarding procedural issues are more commonly given prospective effect than are decisions regarding substantive issues (Citation.), decisions affecting an applicant’s substantive right to receive or a defendant’s substantive duty to pay workers’ compensation benefits will be applied prospectively under appropriate circumstances.”

(Farris v. Industrial Wire Products (2000) 65 Cal.Comp.Cases 824, 832–833 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 14.)

“In Farris, we concluded that our decision in that case, on the application of section 5814 penalties to unreasonably delayed section 4650(d) penalties, should be applied prospectively to avoid “an undue burden on the administration of justice in the workers’ compensation system” and the “overwhelming adverse effect on the workers’ compensation system and on the reasonable expectations of the parties participating in it.” (Citation.)”

(Messele v. Pitco Foods, Inc. (2011) 76 Cal.Comp.Cases 1318, 1320–1321 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 15.)

“A reading that renders part of a regulation superfluous is to be avoided.”

(Dennis, supra, citing Brinker Restaurant Corp. v. Superior Court (2012) 53 Cal.4th 1004, 1048; see Wells v. One2One Learning Foundation (2006) 39 Cal.4th 1164, 1207, at p. 15.)

““The Legislature is presumed to be aware of all laws in existence when it passes or amends a statute. [Citations.] The failure of the Legislature to change the law in a particular respect when the subject is generally before it and changes in other respects are made is indicative of an intent to leave the law as it stands in the aspects not amended. [Citations.]””

(Geletko v. Cal. Highway Patrol (2016) 81 Cal.Comp.Cases 661, 667 (panel), citing In re Greg F. (2012) 55 Cal.4th 393, 407, as quoted in Dennis, supra, at p. 17.)

“There are also principles of substantial justice and liberality of statutory interpretation that are constitutionally and statutorily prescribed in a workers’ compensation case. (See § 3202.)”

(Dennis, supra, citing Cal. Const., art. XIV, § 4; Lab. Code, § 3202, at p. 14.)

“As with any question of statutory interpretation, we begin with the language of the statute.”

(*Maxham v. California Dept. of Corrections and Rehabilitation* (2017) ADJ3540065, 82 Cal.Comp.Cases 136 (Appeals Bd. en banc), citing *Horwich v. Superior Court* (1999) 21 Cal.4th 272, 276; *People v. Pieters* (1991) 52 Cal.3d 894, 898–899, at p. 8.)

““Where the same word is used in more than one place in a legislative enactment, we presume the same meaning was intended in each instance.””

(*Castro v. Sacramento County Fire Protection Dist.* (1996) 47 Cal.App.4th 927, 932, as quoted in *Maxham*, supra, at p. 8.)

Cross-references: § 1.2 (stare decisis); § 9.6 (prospective holdings applied); § 21.2 (the amended § 5909 construed); § 15.2 (canons applied).

§ 1.5 Regulations: Whose Rules, and the Test of Validity

● settled · en banc; the test stated and applied · quotations verified 8/24/26 · cite: *Blackletter* § 1.5, p. 11 (2026) ·

“As explained in our opinion in *Mendoza v. Huntington Hosp. et al.* (2010) 75 Cal.Comp.Cases 634 (Appeals Board en banc) (writ den.), “[t]he WCAB has exclusive original jurisdiction to determine the validity of regulations adopted by the A[dministrative] D[irector]. [Citations.]””

(*Dennis*, supra, citing *Mendoza v. Huntington Hosp.* (2010) 75 Cal.Comp.Cases 634, 640 (Appeals Bd. en banc) (writ den.), at p. 8.)

“In making this determination, a court must consider the following: (1) whether the regulation is consistent and not in conflict with the statute, and (2) whether the regulation is within the scope of the authority conferred. (*Mendoza*, at p. 640.) A regulation that is inconsistent with the statute is invalid. (*Ibid.*) Likewise, a regulation that exceeds the scope of the enabling statute is invalid.”

(*Dennis*, supra, citing *Mendoza*, supra, 75 Cal.Comp.Cases at pp. 640–641 (Appeals Bd. en banc), at p. 9.)

““Accordingly, ‘any . . . regulation promulgated by the [Administrative] Director of the Division of Workers’ Compensation in contradiction to the Workers’ Compensation Act is invalid. . . . [A]dministrative regulations may not contravene [the] terms of statutes under which they are adopted. [Citations.]”” (*Ibid.*) Courts “not only may, but it is their obligation to strike down such regulations. [Citations.]””

(*Dennis*, supra, quoting *Mendoza*, supra, at p. 9.)

“We do not dispute that an “administrative regulation is presumptively valid” and that “if there is a reasonable basis for it, a reviewing court [shall] not substitute its judgment for that of the administrative body.” (Tomlinson v. Qualcomm, Inc. (2002) 97 Cal.App.4th 934, 940; Boughner v. Comp USA, Inc. (2008) 73 Cal.Comp.Cases 854, 860 (Appeals Board en banc); see AD’s Response, p. 3:12-16.) But this presumptive validity is rebuttable and the law sets forth clear standards as discussed above for rebutting it. (Boughner, supra.)”

(Dennis, supra, citing Tomlinson v. Qualcomm, Inc. (2002) 97 Cal.App.4th 934, 940; Boughner v. Comp USA, Inc. (2008) 73 Cal.Comp.Cases 854, 860 (Appeals Bd. en banc), at p. 9.)

“A statute[16] is a law enacted by the Legislature. A regulation is a rule issued by a governmental agency and must be authorized by statute.”

(Dennis, supra, fns. 16–17 [dictionary definitions omitted], at p. 15.)

“The Workers’ Compensation Act is found in Divisions 4 and 4.5 of the Labor Code, as administered and enforced by the Division of Workers’ Compensation under the control of the Administrative Director, “except as to those duties, powers, jurisdiction, responsibilities, and purposes as are specifically vested in” the Appeals Board.”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8, quoting Lab. Code, § 111 — the line between the Division and the Appeals Board; also printed at § 1.3.) · same rule printed at § 1.3

“Neither statute authorizes the Administrative Director to adjudicate SJDB disputes. As discussed above, the power to adjudicate workers’ compensation claims is reserved exclusively to the WCAB. (§§ 5300, 5307;”

(Dennis, supra — administration is not adjudication; applied at § 15.3, at p. 13.) · same rule printed at § 15.3

“[R]equiring a party to file an appeal within a specified timeframe is not within the Administrative Director’s administrative authority because, as discussed above, this requirement restricts a party from accessing the jurisdiction of the WCAB.”

(Dennis, supra — a regulatory deadline may not restrict access to the Board; applied at § 15.3, at p. 15.) · same rule printed at § 15.3

“For instance, we observe that the Administrative Director’s initial determination regarding disputed medical bills is distinct from an initial determination regarding SJDB disputes because the former is based on statute (§ 4603.6(f)) and the latter is based on a regulation (Cal. Code Regs., tit. 8, § 10133.54). . . . Thus, while the Administrative Director may properly make an initial determination regarding disputed medical bills, this is not the case with SJDB disputes.”

(Dennis, supra — the statute/regulation distinction that decides which initial determinations stand; applied at § 15.3, at p. 14.) · same rule printed at § 15.3

“Thus, while the rules are valid, AD Rules 31.3 and 31.5 cannot be interpreted as finally determining whether a replacement panel is appropriate because such an interpretation would usurp the adjudicative power of the Appeals Board to determine whether a QME should be replaced.”

(Vazquez, supra, at p. 13 — a valid rule may still not adjudicate; applied at § 9.6.) · same rule printed at § 9.6

“WCAB Rule 10390 does not supersede the Coldiron decisions. Defendants must comply with WCAB Rule 10390 and the disclosure requirements in Coldiron I and II, regardless of whether there is a third-party administrator.”

(DiFusco, supra, at p. 2 [Holding No. 3] — a renumbered Board rule does not displace en banc precedent; applied at § 16.2.) · same rule printed at § 16.2

Cross-references: § 1.2 (a regulation cannot supersede en banc precedent); § 1.3 (the Board’s own rulemaking power); § 2.1 (the statutory carve-outs from exclusive jurisdiction); § 9.6 (AD Rules 31.3, 31.5 applied); § 15.3 (AD Rule 10133.54 held invalid).

CHAPTER 2 · JURISDICTION & COVERAGE

§ 2.1 Exclusive Jurisdiction of the WCAB

• settled · en banc as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 2.1, p. 14 (2026) ·

“Pursuant to section 5300, the WCAB has exclusive jurisdiction to adjudicate the “recovery of compensation, or concerning any right or liability arising out of or incidental thereto” of injuries that “arise out of and in the course” of employment.”

(Dennis, supra, 85 Cal.Comp.Cases at p. 396 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 8.)

“In other words, the WCAB maintains exclusive jurisdiction pursuant to the California Constitution and section 5300 to adjudicate workers’ compensation disputes.”

(Dennis, supra, as quoted in Vazquez, supra, at p. 8.)

“Compensation includes medical treatment, temporary disability indemnity, permanent disability indemnity, SJDB vouchers, and death benefits.”

(Dennis, supra, citing Lab. Code, § 3207; see Lab. Code, § 3550(d)(5), at p. 8.)

“As discussed in *Stevens v. Workers’ Comp. Appeals Bd.* (2015) 241 Cal.App.4th 1074, 1091 [80 Cal.Comp.Cases 1262], the Legislature created statutory exceptions to the WCAB’s exclusive adjudicatory jurisdiction in sections 4610 (utilization review) and 4610.6 (independent medical review). (§§ 4610 and 4610.6.) Sections 3715(c) (workers’ compensation insurance) and 4603.6(f) (medical bills) are additional statutory exceptions to the WCAB’s exclusive adjudicatory jurisdiction. (§§ 3715(c) and 4603.6(f).)”

(Dennis, supra, fn. 12, citing Stevens v. Workers’ Comp. Appeals Bd. (2015) 241 Cal.App.4th 1074, 1091; Lab. Code, §§ 3715(c), 4603.6(f), 4610, 4610.6, at p. 8.)

“[W]e are aware that the WCAB’s exclusive jurisdiction to adjudicate workers’ compensation claims is subject to affirmative defenses such as the statute of limitations. In workers’ compensation cases, there is a statute of limitations that specifically defines the time in which an injured worker must file their application for adjudication of benefits. (§ 5405.)”

(Dennis, supra, citing Lab. Code, § 5405, at p. 14.)

“For instance, the WCAB “has broad equitable powers with respect to matters within its jurisdiction. [Citation].” (*Truck Ins. Exchange v. Workers’ Comp. Appeals Bd. (Kwok)* (2016) 2 Cal.App.5th 394, 401 [81 Cal.Comp.Cases 685].) “[E]quitable doctrines such as laches are applicable in workers’ compensation litigation. [Citations].” (*Ibid.*)”

(*Dennis, supra, quoting Truck Ins. Exchange v. Workers’ Comp. Appeals Bd. (Kwok)* (2016) 2 Cal.App.5th 394, 401, at p. 14.)

“In short, the WCAB maintains exclusive jurisdiction to adjudicate workers’ compensation claims unless there is a statutory carve out as discussed in footnote 12, *infra*.”

(*Dennis, supra, at p. 15.*)

“[T]he WCAB has broad adjudicatory powers concerning the recovery of workers’ compensation benefits or the recovery of any right or liability regarding injuries arising out of and in the course of employment. (§§ 133, 3600(a), 5300(a).) These broad powers include adjudicating issues that are not directly before us in order to carry out the substantial rights of the parties. (§ 5708 [the Appeals Board “shall not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of the division.”])”

(*Dennis, supra, citing Lab. Code, §§ 133, 3600(a), 5300(a); quoting Lab. Code, § 5708, at p. 16.*)

“The Office of the Attorney General recognizes that the WCAB “is the adjudicatory body of the workers’ compensation system which imposes on employers as defined therein, without regard to their negligence or the lack of negligence of their employees, a liability to compensate workers for work-related injuries.””

(*Dennis, supra, fn. 9, quoting 61 Ops.Cal.Atty.Gen. 46 (1978), citing Western Indemnity Co. v. Pillsbury* (1915) 170 Cal. 686, at p. 7.)

Cross-references: § 1.3 (the Board as court); § 19.2 (jurisdiction to approve settlements); § 1.5 (validity of regulations) Remainder of chapter: *reserved*.

CHAPTER 9 · THE MEDICAL-LEGAL PROCESS

§ 9.5 Communications and Information to Medical Evaluators (§ 4062.3)

• settled · en banc; § 4062.3 quoted as printed in *Maxham* (subds. (a)–(f)); subd. (g) quoted at the ex parte rules · quotations verified 8/24/26 · cite: *Blackletter* § 9.5, p. 16 (2026) ·

HOLDINGS Nos. 1–2 · MAXHAM (2017) · EN BANC · BINDING · at p. 2

“[W]e hold that: 1. “Information,” as that term is used in section 4062.3, constitutes (1) records prepared or maintained by the employee’s treating physician or physicians, and/or (2) medical and nonmedical records relevant to determination of the medical issues. 2. A “communication,” as that term is used in section 4062.3, can constitute “information” if it contains, references, or encloses (1) records prepared or maintained by the employee’s treating physician or physicians, and/or (2) medical and nonmedical records relevant to determination of the medical issues.”

(Maxham v. California Dept. of Corrections and Rehabilitation (2017) ADJ3540065, 82 Cal.Comp.Cases 136 (Appeals Bd. en banc), at p. 2.)

“(a) Any party may provide to the qualified medical evaluator selected from a panel any of the following information: (1) Records prepared or maintained by the employee’s treating physician or physicians. (2) Medical and nonmedical records relevant to determination of the medical issue. (b) Information that a party proposes to provide to the qualified medical evaluator selected from a panel shall be served on the opposing party 20 days before the information is provided to the evaluator. If the opposing party objects to consideration of nonmedical records within 10 days thereafter, the records shall not be provided to the evaluator. Either party may use discovery to establish the accuracy or authenticity of nonmedical records prior to the evaluation. (c) If an agreed medical evaluator is selected, as part of their agreement on an evaluator, the parties shall agree on what information is to be provided to the agreed medical evaluator. (d) In any formal medical evaluation, the agreed or qualified medical evaluator shall identify the following: (1) All information received from the parties. (2) All information reviewed in preparation of the report. (3) All information relied upon in the formulation of his or her opinion. (e) All communications with a qualified medical evaluator selected from a panel before a medical evaluation shall be in writing and shall be served on the opposing party 20 days in advance of the evaluation. Any subsequent communication with the medical evaluator shall be in writing and shall be served on the opposing party when sent to the medical evaluator. (f) Communication with an agreed medical evaluator shall be in writing, and shall be served on the opposing party when sent to the agreed medical evaluator. Oral or written communications with physician staff or, as applicable, with the agreed medical evaluator, relative to nonsubstantial matters such as the scheduling of appointments, missed appointments, the furnishing of records and reports, and the availability of the report, do not constitute ex parte communications in violation of this section unless the appeals board has made a specific finding of an impermissible ex parte communication. (Lab. Code, § 4062.3 [emphasis added].)”

(Lab. Code, § 4062.3(a)–(f), as quoted in Maxham, supra [the Board’s emphasis], at p. 7.)

“Pursuant to the above provisions, the Code requires the parties’ agreement before any “information” is provided to an AME. (Lab. Code, § 4062.3(c).) In contrast, when a party wishes to send a “communication” to an AME, it is necessary only to serve the opposing party with that communication. Obtaining the opposing party’s consent regarding a “communication” with an AME is not necessary. (Lab. Code, § 4062.3(f).)”

(Maxham, supra, at p. 8.)

“Only when the correspondence contains, references, or encloses “information” which the parties have not agreed to provide to the AME does it violate section 4062.3(c).”

(Maxham, supra, at p. 10.)

“We have accordingly held that sub rosa video provided to a QME constituted “information” because, “Information, such as a film or video is separate from a communication and its enclosure with a communication will not transform it into a communication.” (See *Wan v. Community Health Network* (San Francisco Gen. Hosp.) (2015) 2015 Cal. Wrk. Comp. P.D. LEXIS 243, p. 6.) We have similarly held that a vocational report provided to an AME at a deposition could not be a “communication” because it “also contained ‘information’ as defined in section 4062.3(a)(2).” (See *Trapero v. Northern American Pneumatics* (2012) 2012 Cal. Wrk. Comp. P.D. LEXIS 541, p. 9.)”

(Maxham, supra, citing Wan v. Community Health Network (2015) 2015 Cal. Wrk. Comp. P.D. LEXIS 243 (panel); Trapero v. Northern American Pneumatics (2012) 2012 Cal. Wrk. Comp. P.D. LEXIS 541 (panel), at p. 9.)

“We recognize that previous panel decisions on this issue may have created confusion regarding the precise delineation between “communication” and “information” and whether engaging in advocacy crosses that line.¹² To the extent that those decisions do not comport with the above analysis of the dividing line between “information” and “communication,” we disagree with them.”

(Maxham, supra [en banc disapproval of non-conforming panel decisions; see § 1.1], at p. 12.)

“Despite our previous indications to the contrary, engaging in legitimate “advocacy” does not transform correspondence with a medical examiner from “communication” into “information.””

(Maxham, supra, at p. 12.)

“Correspondence engaging in “advocacy” or asserting a “legal or factual position” can, however, cross the line into “information” if it has the effect of disclosing impermissible “information” to the AME without explicitly containing, referencing, or enclosing it. Misrepresentation of case law or legal holdings, engaging in sophistry regarding factual or legal issues, or misrepresentation of actual “information” in a case are three ways in which a party might attempt to convey purported “information” to a medical examiner to which the opposing party has not agreed.”

(Maxham, supra, at p. 12.)

“If the WCJ determines that applicant improperly provided “information” to the AMEs, he has wide discretion in fashioning an appropriate remedy for the violation of section 4062.3(c). Because this case does not involve an improper ex parte communication with an AME, removal of that AME may not be warranted.”

(Maxham, supra, at p. 13.)

“The WCJ retains wide discretion in assessing the contents of a parties’ advocacy letters to ensure parties do not serve correspondence which could confuse or misdirect the attention of a medical examiner, even if that “communication” does not expressly contain, reference, or enclose “information.””

(Maxham, supra, at p. 12.)

“Accordingly, if the correspondence contains, references, or encloses (1) records prepared or maintained by the employee’s treating physician or physicians, or (2) medical and nonmedical records relevant to determination of the medical issue that the parties previously agreed to provide to the AME, serving that correspondence on the AME without giving the opposing party an opportunity to object would not violate section 4062.3(c).”

(Maxham, supra [the safe harbor: agreed-upon information], at p. 9.)

“Said differently, litigants are entitled to reference (1) records prepared or maintained by the employee’s treating physician or physicians, and (2) medical and nonmedical records relevant to determination of the medical issue in advocacy letters if the parties have previously agreed to provide that referenced “information” to the AME.”

(Maxham, supra, fn. 9, at p. 10.)

“Black’s further states that an “ex parte communication” is, “A generally prohibited communication between counsel and the court when opposing counsel is not present.””

(Maxham, supra, quoting Black’s Law Dictionary, at p. 6.)

“[W]e presume that “information” should have the same meaning in each use throughout section 4062.3, regardless of whether it references records provided to a QME or an AME.”

(Maxham, supra, fn. 8, at p. 8.)

“Ordinarily, however, advocacy letters discussing legal positions or decisions would not constitute “information” as defined by section 4062.3(a).”

(Maxham, supra, at p. 11.)

“Rule 35(d) provides that, “If the opposing party objects within 10 days of any non-medical records or information proposed to be sent to an evaluator, those records and that information shall not be provided to the evaluator unless so ordered by a Workers’ Compensation Administrative Law Judge.””

(Cal. Code Regs., tit. 8, § 35(d), as quoted in Maxham, supra, fn. 6, at p. 5.)

HOLDINGS Nos. 1–5 · SUON (2018) · EN BANC · BINDING · at p. 2

“1. Disputes over what information to provide to the QME are to be presented to the WCAB if the parties cannot informally resolve the dispute. 2. Although section 4062.3(b) does not give a specific timeline for the opposing party to object to the QME’s consideration of medical records, the opposing party must object to the provision of medical records to the QME within a reasonable time in order to preserve the objection. 3. If the aggrieved party elects to terminate the evaluation and seek a new evaluation due to an ex parte communication, the aggrieved party must do so within a reasonable time following discovery of the prohibited communication. 4. The trier of fact has wide discretion to determine the appropriate remedy for a violation of section 4062.3(b). 5. Removal is the appropriate procedural avenue to challenge a decision regarding disputes over what information to provide to the QME and ex parte communication with the QME.”

(Suon v. California Dairies (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc), at p. 2) · same rule printed at § 21.8

“Whether a party properly served a written communication with the QME to the opposing party is a question of fact the determination of which must be supported by substantial evidence.”

(Suon v. California Dairies (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc), citing Lab. Code, §§ 5903, 5952(d); Lamb v. Workmen’s Comp. Appeals Bd. (1974) 11 Cal.3d 274; Garza v. Workmen’s Comp. Appeals Bd. (1970) 3 Cal.3d 312, at p. 7.)

“Although the timelines differ for service of communications with the QME before a medical evaluation and any subsequent communications, section 4062.3(e) requires both types of communication be in writing and be served on the opposing party to avoid ex parte communication with the QME.”

(Suon, supra, construing Lab. Code, § 4062.3(e), at p. 13.)

“If a party engages in ex parte communication with the QME in violation of section 4062.3(e), section 4062.3(g) expressly provides that “the aggrieved party may elect to terminate the medical evaluation and seek a new evaluation from another qualified medical evaluator.””

(Suon, supra, quoting Lab. Code, § 4062.3(g), at p. 13.)

“Although section 4062.3(b) does not give a specific timeline for the opposing party to object to the QME’s consideration of medical records, the opposing party must object to the provision of medical records to the QME within a reasonable time in order to preserve that objection.”

(Suon, supra — Holding No. 2 restated in the discussion; the holding itself is printed in the plate above, which reads “the objection.”) (at p. 2.)

“The failure to object at the first opportunity may be construed as an implicit agreement by the opposing party to provision of the information to the QME. (See e.g., *U.S. Auto Stores v. Workmen’s Comp. Appeals Bd. (Brenner)* (1971) 4 Cal.3d 469, 476-477 [36 Cal.Comp.Cases 173]; *Waller v. Truck Ins. Exchange, Inc.* (1995) 11 Cal.4th 1, 31.) Additionally, the failure to object at the first opportunity may improperly permit the opposing party to learn the effect of the information on the QME’s opinions before lodging an objection.”

(Suon, supra, citing U.S. Auto Stores v. Workmen’s Comp. Appeals Bd. (Brenner) (1971) 4 Cal.3d 469, 476-477; Waller v. Truck Ins. Exchange, Inc. (1995) 11 Cal.4th 1, 31, at p. 10.)

“When faced with a dispute regarding whether to provide information to a QME, the parties should similarly make a good faith effort to informally resolve the dispute pursuant to the 20-day period mandated by section 4062.3(b). Informal resolution of these disputes helps to progress matters in an expeditious fashion and avoid involving the Appeals Board in disputes the parties are capable of resolving without judicial intervention.”

(Suon, supra, drawing on Code Civ. Proc., § 2016.040 [the meet-and-confer declaration], at p. 11.)

“Due to this distinction, evaluation of whether a party has provided information to the QME in violation of section 4062.3(b) is an independent inquiry from the question of whether there was ex parte communication with the QME.”

(Suon, supra, at p. 14.)

“[T]rier of fact may consider include, but are not limited to, the following, as relevant: 1. The prejudicial impact versus the probative weight of the information. 2. The reasonableness, authenticity and, as appropriate, relevance of the information to determination of the medical issues. 3. The timeline of events including: evidence of proper service of the information on the opposing party, attempts, if any, by the offending party to cure the violation, any disputes regarding receipt by the opposing party and when the opposing party objected to the violation. 4. Case specific factual reasons that justify replacing or keeping the current QME, including the length of time the QME has been on the case. 5. Whether there were good faith efforts by the parties to agree on the information to be provided to the QME. 6. The constitutional mandate to “accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character.” (Cal. Const., art. XIV, § 4.)”

(Suon, supra [the six factors bearing on the remedy for a § 4062.3(b) violation; the passage spans slip pp. 14-15 — running head and pagination marks are page furniture, not text], at p. 14.)

“Although the trier of fact may conclude that the appropriate remedy is a new QME, the trier of fact may conclude that other relief besides a new QME, or in addition to a new QME, is more appropriate for a party’s violation of section 4062.3(b) depending on the circumstances.”

(Suon, supra, at p. 15.)

““A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.””

(Evid. Code, § 641, as quoted in Suon, supra; see Minnicar v. Mt. San Antonio Community College District (1996) 61 Cal.Comp.Cases 1055, 1059 (Appeals Bd. en banc), at p. 16.)

“Accordingly, if the opposing party timely objects to nonmedical records proposed to be served to the QME, those records shall not be provided to the evaluator pursuant to the plain language of section 4062.3(b) unless the trier of fact so orders.”

(Suon, supra, construing Lab. Code, § 4062.3(b), at p. 9.)

“A violation of either section 4062.3(b) or 4062.3(g) may result in an irreparable taint on the medical-legal evaluator depending on the circumstances.”

(Suon, supra, fn. 8 [the sentence is interrupted in the slip by an interposed footnote block; the two fragments are contiguous in the opinion], at p. 7.)

“Thus, evidence of service on the opposing party in accordance with sections 4062.3(b) and (e) establishes compliance by the sending party with that section.”

(Suon, supra, citing Heinlen v. Heilbron (1892) 94 Cal. 636, 640, at p. 15.)

Cross-references: § 9.6 (QME replacement); § 17.1 (discovery); § 21.8 (removal standard); § 1.1 (weight of panel decisions).

§ 9.6 Replacement of a QME: Jurisdiction, Statutory Rights, and the Good-Cause Factors

• settled · en banc; statutes and regulations as quoted; holdings prospective · quotations verified 8/24/26 · cite:
Blackletter § 9.6, p. 23 (2026) ·

HOLDING No. 1 · VAZQUEZ (2025) · EN BANC · BINDING · PROSPECTIVE · at p. 2

“Only the Appeals Board has jurisdiction to determine whether a replacement panel is valid or otherwise appropriate.”

“Accordingly, the Appeals Board is vested with the judicial power to adjudicate workers’ compensation cases, which includes the determination of whether a replacement QME panel is valid or otherwise appropriate.”

(Vazquez, supra, at p. 9, citing Lab. Code, § 111.)

“The Appeals Board has broad powers to adjudicate discovery disputes, which include the taking of additional medical evidence.”

(Vazquez, supra, at p. 9, citing McDuffie v. L.A. County Metro. Transit Auth. (2002) 67 Cal.Comp.Cases 138, 141 (Appeals Bd. en banc); Lab. Code, §§ 5701, 5906; Tyler v. Workers’ Comp. Appeals Bd. (1997) 56 Cal.App.4th 389.)

“Two provisions in the Labor Code expressly grant parties the statutory right to replace a QME.”

(Vazquez, supra, at p. 9.)

“In other words, when a violation described in the statute occurs, a party may promptly seek replacement of the QME.”

(Vazquez, supra, at p. 9.)

“(f) Communications with an agreed medical evaluator shall be in writing, and shall be served on the opposing party when sent to the agreed medical evaluator. Oral or written communications with physician staff or, as applicable, with the agreed medical evaluator, relative to nonsubstantial matters such as the scheduling of appointments, missed appointments, the furnishing of records and reports, and the availability of the report, do not constitute ex parte communication in violation of this section unless the appeals board has made a specific finding of an impermissible ex parte communication. (g) Ex parte communication with an agreed medical evaluator or a qualified medical evaluator selected from a panel is prohibited. If a party communicates with the agreed medical evaluator or the qualified medical evaluator in violation of subdivision (e), the aggrieved party may elect to terminate the medical evaluation and seek a new evaluation from another qualified medical evaluator to be selected according to Section 4062.1 or 4062.2, as applicable, or proceed with the initial evaluation.”

(Lab. Code, § 4062.3(f), (g), as quoted in Vazquez, supra, at p. 9, fn. 7; see Alvarez v. Workers’ Comp. Appeals Bd. (2010) 187 Cal.App.4th 575; Suon v. California Dairies (2018) 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc); Maxham v. California Department of Corrections and Rehabilitation (2017) 82 Cal.Comp.Cases 136 (Appeals Bd. en banc).)

“Black’s Law Dictionary defines ‘ex parte’ as, ‘On or from one party only, usually without notice to or argument from the adverse party.’ (Black’s Law Dict. (7th ed. 1999) p. 597, col. 2.) Black’s further states that an ‘ex parte communication’ is, ‘A generally prohibited communication between counsel and the court when opposing counsel is not present.’”

(Maxham, supra, 82 Cal.Comp.Cases at p. 142 (Appeals Bd. en banc), as quoted in Vazquez, supra, at p. 10, fn. 8.)

“The second is a failure to timely complete a formal medical evaluation under sections 4062.5 and 139.2(j) (1).”

(Vazquez, supra, at p. 10.)

“If a qualified medical evaluator selected from a panel fails to complete the formal medical evaluation within the timeframes established by the administrative director pursuant to paragraph (1) of subdivision (j) of Section 139.2, a new evaluation may be obtained upon the request of either party, as provided in Sections 4062.1 or 4062.2. Neither the employee nor the employer shall have any liability for payment for the formal medical evaluation which was not completed within the required timeframes unless the employee or employer, on forms prescribed by the administrative director, each waive the right to a new evaluation and elects to accept the original evaluation even though it was not completed within the required timeframes.”

(Lab. Code, § 4062.5, as quoted in Vazquez, supra, at p. 10.)

“(j) After public hearing pursuant to Section 5307.3, the administrative director shall adopt regulations concerning the following issues: (1) (A) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. Except as provided in this subdivision, the timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure. The administrative director shall develop regulations governing the provision of extensions of the 30-day period in both of the following cases: (i) When the evaluator has not received test results or consulting physician’s evaluations in time to meet the 30-day deadline. (ii) To extend the 30-day period by not more than 15 days when the failure to meet the 30-day deadline was for good cause. (B) For purposes of subparagraph (A), “good cause” means any of the following: (i) Medical emergencies of the evaluator or evaluator’s family. (ii) Death in the evaluator’s family. (iii) Natural disasters or other community catastrophes that interrupt the operation of the evaluator’s business. (C) The administrative director shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Section 4062.1. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also permit the employee to waive this right for a specified period of time thereafter.”

(Lab. Code, § 139.2(j)(1), as quoted in Vazquez, supra, at p. 11.)

“Based on a plain reading of section 139.2(j)(1), we conclude that the term “medical evaluation” does not refer to the scheduling or availability of the QME to set an appointment.”

(Vazquez, supra, at p. 12.)

“Harmonizing sections 4062.5 and 139.2(j)(1), we conclude that the term ‘formal medical evaluation’ contained in section 4062.5 actually refers to the report generated after an in-person evaluation. Thus, a party may seek to replace a QME under section 4062.5 where an evaluation takes place and the report prepared from that evaluation is untimely served.”

(Vazquez, supra, at p. 12.)

“[W]hen sections 4062.5 and 139.2(j)(1) are read together, a party’s statutory right to seek replacement of a QME in represented cases arises when the QME fails to timely issue a report following a medical evaluation.”

(Vazquez, supra, at p. 10.)

“In represented cases, the determination of whether a QME should be replaced due to unavailability to set an evaluation is within the discretionary power of the Appeals Board, and a QME may be replaced where a party demonstrates good cause for the replacement.”

(Vazquez, supra, at p. 10.)

“(e) If a party with the legal right to schedule an appointment with a QME is unable to obtain an appointment with a selected QME within ninety (90) days of the date of the appointment request, that party may waive the right to a replacement in order to accept an appointment no more than one-hundred-twenty (120) days after the date of the party’s initial request for an appointment. When the selected QME is unable to schedule the evaluation within one-hundred-twenty (120) days of the date of that party’s initial request for an appointment, either party may report the unavailability of the QME and the Medical Director shall issue a replacement pursuant to section 31.5 of Title 8 of the California Code of Regulations upon request, unless both parties agree in writing to waive the one-hundred-twenty (120) day time limit for scheduling the initial or any subsequent evaluation.”

(Cal. Code Regs., tit. 8, § 31.3(e), as quoted in Vazquez, supra, at p. 12.)

“(f) The provisions of subdivision (e) of this regulation apply to both requests for any Comprehensive Medical-Legal Evaluation by a QME and requests for Follow Up Comprehensive Medical-Legal Evaluations by a QME.”

(Cal. Code Regs., tit. 8, § 31.3(f), as quoted in Vazquez, supra, at p. 13.)

“AD Rule 31.5 merely compels the Medical Director to issue a replacement panel upon request of a party when any of the enumerated conditions in subdivision (a)(2) occur.”

(Vazquez, supra, at p. 13; see Cal. Code Regs., tit. 8, § 31.5(a)(2).)

“Thus, while the rules are valid, AD Rules 31.3 and 31.5 cannot be interpreted as finally determining whether a replacement panel is appropriate because such an interpretation would usurp the adjudicative power of the Appeals Board to determine whether a QME should be replaced.”

(Vazquez, supra, at p. 13, citing Lab. Code, § 111; also printed at § 1.5.) · same rule printed at § 1.5

“In a represented case, the Labor Code expressly allows replacement of a QME who drafts an untimely report following a medical evaluation; however, it does not compel replacement of a QME who is not timely available to set an appointment. Absent a statute compelling such a result, whether a QME should be replaced due to unavailability falls within the Appeals Board’s broad equitable powers.”

(Vazquez, supra, at p. 13, citing Lab. Code, §§ 111, 52, 5300–5302; McHugh, supra, 49 Cal.3d at pp. 355–356.)

“[T]he Industrial Accident Commission of this state has been invested with the power and authority to hear and determine equitable issues.”

(Bankers Indemnity Ins. Co. v. Industrial Acc. Com. (Merzoian) (1935) 4 Cal.2d 89, 98, as quoted in Vazquez, supra, at p. 13.)

“The administrative director shall establish agreements with qualified medical evaluators to ensure the expeditious evaluation of cases assigned to them for comprehensive medical evaluations.”

(Lab. Code, § 139.2(g), as quoted in Vazquez, supra, at p. 13.)

“Accordingly, where a QME is unavailable pursuant to regulation, they may subject themselves to discipline, which could ultimately lead to the loss of the QME’s appointment.”

(Vazquez, supra, at p. 13, citing Cal. Code Regs., tit. 8, § 60.)

“While the dates set by the Administrative Director are important and should be followed and may even be persuasive as to whether the length of delay is inappropriate, we cannot find on this record that the mere passing of time is sufficient to warrant replacing the existing QME.”

(Vazquez, supra, at p. 13.)

“Instead, we adapt the factors set forth in the panel decision in Corrado, supra.”

(Vazquez, supra, at p. 14; see Corrado v. Aquafine Corp. (June 24, 2016, ADJ9150447, ADJ9150446) [2016 Cal.Wrk.Comp. P.D. LEXIS 318] (panel).)

HOLDING No. 2 · VAZQUEZ (2025) · EN BANC · BINDING · PROSPECTIVE · at p. 2

“In a represented case, where a QME does not timely establish availability to set an appointment pursuant to AD Rule 31.3, a WCJ or the Appeals Board has discretion to order a replacement QME for good cause. The WCJ or the Appeals Board may consider the following: a. The length of delay caused by the QME’s unavailability. b. The amount of prejudice caused by the delay in availability versus the amount of prejudice caused by restarting the QME process. c. What efforts, if any, have been made to remedy the QME’s availability. d. Case specific factual reasons that justify replacing or keeping the current QME, including whether a party may have waived its objection. e. The Appeals Board’s constitutional mandate to “accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character.” (Cal. Const., art. XIV, § 4.)”

“In Messele, the Appeals Board found that the 10-day period to request an evaluator is extended by five days by application of law.”

(Vazquez, supra, at p. 15, describing Messele, supra, 76 Cal.Comp.Cases 1318 (Appeals Bd. en banc).)

“The first is ex parte communication.”

(Vazquez, supra, at p. 9, citing Lab. Code, § 4062.3(f), (g).)

“Other provisions of the Labor Code may present good cause to replace a QME.”

(Vazquez, supra, at p. 9, fn. 6.)

“For example, a violation of section 4628 compels the exclusion of a QME’s report under subdivision (e) and could be considered by a WCJ in determining whether good cause existed for a QME’s replacement.”

(Vazquez, supra, at p. 9, fn. 6, citing Lab. Code, § 4628(e).)

“(a) A replacement QME to a panel, or at the discretion of the Medical Director a replacement of an entire panel of QMEs, shall be selected at random by the Medical Director and provided upon request whenever any of the following occurs[.]”

(Cal. Code Regs., tit. 8, § 31.5(a), as quoted in Vazquez, supra, at p. 13.)

Cross-references: § 1.4 (prospective application); § 16.9 (medical evaluations and OSAs); § 17.1 (discovery); ch. 9 remainder: *reserved*.

CHAPTER 14 · PENALTIES, SANCTIONS & INCREASED COMPENSATION

§ 14.1 Sanctions: Section 5813 and Rule 10561

• settled · en banc notice of intention; holding reiterated in *Coldiron II* · quotations verified 8/24/26 · cite:
Blackletter § 14.1, p. 29 (2026) ·

“Labor Code section 5813 provides, in relevant part: “The . . . appeals board may order a party, the party’s attorney, or both, to pay any reasonable expenses, including attorney’s fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, . . . the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars (\$2,500) to be transmitted to the General Fund.””

(*Lab. Code, § 5813, as quoted in Coldiron I, supra, at p. 5.*)

“WCAB Rule 10561 (Cal. Code of Regs., tit. 8, § 10561) provides, in relevant part: “On its own motion . . ., the Workers’ Compensation Appeals Board may order payment of reasonable expenses, including attorney’s fees and costs and, in addition, sanctions as provided in Labor Code section 5813. Before issuing such an order, the alleged offending party or attorney must be given notice and an opportunity to be heard. In no event shall the Appeals Board, . . . impose a monetary sanction pursuant to Labor Code section 5813 where the one subject to the sanction acted with reasonable justification or other circumstances make imposition of the sanction unjust. “A bad faith action or tactic is one which results from a willfull failure to comply with a statutory or regulatory obligation or from a willful intent to disrupt or delay the proceedings of the Workers’ Compensation Appeals Board.””

(*Coldiron v. Compuware Corp. (2002) SRO 0088351, 67 Cal.Comp.Cases 289 (Appeals Bd. en banc) [Coldiron I], quoting Cal. Code Regs., tit. 8, § 10561 [“willfull” so in original]. Source: scanned slip opinion; text proofread against the page images — see the transcript note at /api/verification, at p. 6.*)

“Failure of the administrator to disclose the identity of its client may subject it to sanctions pursuant to Labor Code section 5813.”

(*Coldiron I, supra; accord § 16.2 [the disclosure duties], at p. 2.*) · same rule printed at § 16.2

“In addition, we will not impose sanctions on Gallagher Basset inasmuch as this is the first time that the Appeals Board has addressed the underlying issue presented by this case. But for this being a case of first impression, six years of “human error” would not be acceptable as a defense to the imposition of sanctions.”

(*Coldiron v. Compuware Corp. (2002) SRO 0088351, 67 Cal.Comp.Cases 1466 (Appeals Bd. en banc) [Coldiron II] [“Gallagher Basset” so in original; first-impression forbearance; six years of “human error” otherwise indefensible], at p. 5.*)

Cross-references: § 14.9 (defendant’s remedies for frivolous claims); § 16.2 (the *Coldiron* disclosures).

§ 14.9 Defendant’s Remedies for Frivolous or Bad-Faith Claims

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 14.9, p. 30 (2026) ·

“While that goal is noble, that is not within the province of adequacy review.”

(Gaines, supra, at p. 22 [protecting insured defendants from overpaying claims].)

“If a defendant believes that a claim is filed frivolously or in bad faith, they may file an appropriate petition and seek to recover the costs of litigation. (Cal. Code Regs, tit. 8, § 10421.) If a defendant believes in good faith that a claim may involve fraud, defendant may take appropriate measures to report suspected fraud. (Cal. Ins. Code, § 1877.3(b).)”

(Gaines, supra, at p. 22.) · same rule printed at § 24.6

Cross-references: § 19.4 (what adequacy review is for); § 24.6 (fraud reporting; criminal proceedings); § 14.1 (sanctions). Remainder of chapter: *reserved*.

§ 15.1 The Supplemental Job Displacement Benefit

• settled · en banc; final decision after reconsideration; statutes and rule quoted · quotations verified 8/24/26 · cite:
Blackletter § 15.1, p. 31 (2026) ·

“A SJDB voucher pays for a range of education-related retraining, skill enhancement, and/or vocational expenses at the injured worker’s option to equip them to re-enter the workforce. (§ 4658.7(e).)”

(Dennis v. State of California (2020) ADJ9346293, 85 Cal.Comp.Cases 389 (Appeals Bd. en banc), at p. 2, fn. 7.)

“Both sections 4658.5 and 4658.7 provide that an injured employee who sustains permanent partial disability is entitled to a SJDB voucher. (§§ 4658.5 and 4658.7.) Both statutes provide an exemption to a SJDB voucher when the employer makes an offer of regular, modified, or alternative work that meets certain specified criteria. (§§ 4658.6 and 4658.7(b).) Depending on the year of the injury and, in some instances, on the level of the permanent disability award, a SJDB voucher is redeemable up to \$10,000, to pay for a range of retraining or vocational expenses at the injured employee’s option. (§§ 4658.5 and 4658.7.)”

(Dennis, supra, at p. 10.)

“Section 4658.5 applies to injuries occurring on or after January 1, 2004, and before January 1, 2013. (§ 4658.5(a).) Section 4658.7 applies to injuries occurring on or after January 1, 2013. (§ 4658.7(a).)”

(Dennis, supra, at p. 10.)

“(c) . . . The administrative director shall adopt regulations governing the form of payment, direct reimbursement to the injured employee upon presentation to the employer of appropriate documentation and receipts, and other matters necessary to the proper administration of the supplemental job displacement benefit.”

(Lab. Code, § 4658.5(c), as quoted in Dennis, supra, at p. 10.)

“The administrative director shall adopt regulations for the administration of this section, including, but not limited to, both of the following: (1) The time, manner, and content of notices of rights under this section. (2) The form of a mandatory attachment to a medical report to be forwarded to the employer pursuant to paragraph (1) of subdivision (b) for the purpose of fully informing the employer of work capacities and of activity restrictions resulting from the injury that are relevant to potential regular work, modified work, or alternative work. (§ 4658.7(h).)”

(Lab. Code, § 4658.7(h), as quoted in Dennis, supra, at p. 10.)

“Section 3370 provides that inmates are entitled to workers’ compensation benefits and sets forth the requirements for compensation. Section 3370(e) states in pertinent part that, “Notwithstanding any other provision of this division, an employee who is an inmate, as defined in subdivision (e) of Section 3351 who is eligible for vocational rehabilitation services as defined in Section 4635 shall only be eligible for direct placement services.” (§ 3370(e).)”

(Dennis, supra, quoting Lab. Code, § 3370(e), at p. 17.)

“In 2004, Senate Bill 899 (SB 899) terminated vocational rehabilitation benefits as of January 1, 2009. (Weiner v. Ralphs Co. (2009) 74 Cal.Comp.Cases 736, 742 (Appeals Board en banc).) We note, however, that the Legislature did not amend section 3370 to preclude or limit provision of a SJDB voucher to inmates.”

(Dennis, supra, citing Weiner v. Ralphs Co. (2009) 74 Cal.Comp.Cases 736, 742 (Appeals Bd. en banc), at p. 17.)

“Hence, inmates, like other injured workers, are equally eligible for SJDB vouchers under the statute.”

(Dennis, supra, at p. 17.)

Cross-references: § 15.2 (the bona fide offer); § 15.3 (SJDB disputes); § 2.1 (compensation includes the voucher).

§ 15.2 The Bona Fide Offer of Regular, Modified, or Alternative Work

• settled · en banc; final decision after reconsideration; statutes and rule quoted · quotations verified 8/24/26 · cite:
Blackletter § 15.2, p. 32 (2026) ·

HOLDING No. 2 · DENNIS (2020) · EN BANC · BINDING · at p. 2

“(2) an employer must show that it made a bona fide offer of regular, modified, or alternative work in order to avoid liability for a supplemental job displacement benefit voucher.”

“Section 4658.7(b) provides that an injured employee with permanent partial disability is entitled to a SJDB voucher unless the employer makes an offer of regular, modified, or alternative work that is made no later than the specified period provided by section 4658.7(b)(1), and the offer is for regular work, modified work, or alternative work lasting at least 12 months. (§ 4658.7(b).)”

(Dennis v. State of California (2020) ADJ9346293, 85 Cal.Comp.Cases 389 (Appeals Bd. en banc), at p. 17.)

“(a) “Regular work” means the employee’s usual occupation or the position in which the employee was engaged at the time of injury and that offers wages and compensation equivalent to those paid to the employee at the time of injury, and located within a reasonable commuting distance of the employee’s residence at the time of injury. (b) “Modified work” means regular work modified so that the employee has the ability to perform all the functions of the job and that offers wages and compensation that are at least 85 percent of those paid to the employee at the time of injury, and located within a reasonable commuting distance of the employee’s residence at the time of injury. (c) “Alternative work” means work that the employee has the ability to perform, that offers wages and compensation that are at least 85 percent of those paid to the employee at the time of injury, and that is located within reasonable commuting distance of the employee’s residence at the time of injury. (§ 4658.1(a) – (c).)”

(Lab. Code, § 4658.1(a)–(c), as quoted in Dennis, supra, at p. 18.)

“A bona fide offer is therefore an offer made in good faith or a sincere offer.”

(Dennis, supra, fn. 19, citing Merriam-Webster and Black’s Law Dict. definitions; Leach v. Home Savings & Loan Assn. (1986) 185 Cal.App.3d 1295, 1301–1302; Merrill v. Dept. of Motor Vehicles (1969) 71 Cal.2d 907, 920–921, at p. 18.)

“[W]e conclude that in order to qualify as an exception to the entitlement to a SJDB voucher, the offer of regular, modified, or alternative work must be bona fide.”

(Dennis, supra, at p. 18.)

“The Court of Appeal held that defendant’s offer of the invoicer job did not constitute an offer of alternative work that satisfied defendant’s vocational rehabilitation obligation because defendant did not actually offer applicant the alternative position of invoicer when it used the phrase “would have offered.””

(Dennis, supra, describing Robertson v. Workers’ Comp. Appeals Bd. (2003) 112 Cal.App.4th 893, 901 [68 Cal.Comp.Cases 1567] [underline in original omitted], at p. 19.)

“We, therefore, conclude that an offer of regular, modified, or alternative work must be bona fide.”

(Dennis, supra, at p. 19.)

“Our review of statutes and case law, however, leads us to conclude that an employer’s inability to offer regular, modified, or alternative work does not release an employer from the statutory obligation to provide a SJDB voucher. (§ 4658.7(b).)”

(Dennis, supra, at p. 19.)

““Labor Code section 3202 requires the courts to view the Workers’ Compensation Act from the standpoint of the injured worker, with the objective of securing the maximum benefits to which he or she is entitled.””

(Rubalcava v. Workers’ Comp. Appeals Bd. (1990) 220 Cal.App.3d 901, 910 [55 Cal.Comp.Cases 196], as quoted in Dennis, supra, at p. 19.)

“Thus, absent a bona fide offer of regular, modified, or alternative work, regardless of an employer’s ability to make such an offer, and regardless of an employee’s ability to accept such an offer, an employee is entitled to a SJDB voucher.”

(Dennis, supra, at p. 19.)

“To hold otherwise would lead to absurd results. An inmate worker released from prison would not have a bona fide offer to return to work and at the same time would not receive a SJDB voucher to develop new skills to re-enter the workforce.”

(Dennis, supra, at p. 20.)

Cross-references: § 15.1 (entitlement); § 1.4 (construction canons applied).

§ 15.3 SJDB Disputes: WCAB Jurisdiction; Invalidity of AD Rule 10133.54

• settled · en banc; final decision after reconsideration; statutes and rule quoted · quotations verified 8/24/26 · cite: *Blackletter* § 15.3, p. 34 (2026) ·

HOLDING No. 1 · DENNIS (2020) · EN BANC · BINDING · at p. 2

“(1) AD Rule 10133.54 is invalid because it exceeds the statutory authority granted to the Administrative Director under sections 4658.5, subdivision (c), and 4658.7, subdivision (h), and restricts the exclusive adjudicatory power of the WCAB to adjudicate compensation claims, including disputes over supplemental job displacement benefits;”

“(a) This section and section 10133.55 shall only apply to injuries occurring on or after January 1, 2004. (b) When there is a dispute regarding the Supplemental Job Displacement Benefit, the employee, or claims administrator may request the administrative director to resolve the dispute. (c) The party requesting the administrative director to resolve the dispute shall: (1) Complete Form DWC-AD 10133.55 “Request for Dispute Resolution before the Administrative Director;” (2) Clearly state the issue(s) and identify supporting information for each issue and position; (3) Attach all pertinent documents; (4) Submit a copy of the request and all attached documents to the administrative director and serve a copy of the request and all attached documents on all parties; and (5) Attach a signed and dated proof of service to the Form DWC-AD 10133.55 “Request for Dispute Resolution before the Administrative Director.” (d) The opposing party shall have twenty (20) calendar days from the date of the proof of service of the Request to submit the original response and all attached documents to the administrative director and serve a copy of the response and all attached documents on all parties. (e) The administrative director or his or her designee may request additional information from the parties. (f) The administrative director or his or her designee shall issue a written determination and order based solely on the request, response, and any attached documents within thirty (30) calendar days of the date the opposing party’s response and supporting information is due. If the administrative director or his or her designee requests additional information, the written determination shall be issued within thirty (30) calendar days from the receipt of the additional information. In the event no decision is issued within sixty (60) calendar days of the date the opposing party’s response is due or within sixty (60) calendar days of the administrative director’s receipt of the requested additional information, whichever is later, the request shall be deemed to be denied. (g) Either party may appeal the determination and order of the administrative director by filing a written petition together with a declaration of readiness to proceed pursuant to section 10250 within twenty calendar days of the issuance of the decision or within twenty days after a request is deemed denied pursuant to subdivision (f). The petition shall set forth the specific factual and/or legal reason(s) for the appeal as set forth in section 10294.5 of title 8 of the California Code of Regulations.”

(Cal. Code Regs., tit. 8, § 10133.54, quoted in full in Dennis, supra, at p. 11.)

“AD Rule 10133.54 is adjudicatory in nature in that it requires the Administrative Director to issue a written determination and order concerning a SJDB dispute. (Cal. Code Regs., tit. 8, § 10133.54(f).) Furthermore, AD Rule 10133.54 limits the period of time for parties to appear before the WCAB. (Cal. Code Regs., tit. 8, § 10133.54(g).)”

(Dennis, supra, at p. 12.)

“AD Rule 10133.54 restricts and usurps the exclusive adjudicatory power of the WCAB because it exceeds the expressed language of sections 4658.5(c) and 4658.7(h).”

(Dennis, supra, at p. 12.)

“Neither statute authorizes the Administrative Director to adjudicate SJDB disputes. As discussed above, the power to adjudicate workers’ compensation claims is reserved exclusively to the WCAB. (§§ 5300, 5307;”

(Dennis, supra, fns. 14–15 [dictionary definitions of “administration” and “adjudicate” omitted]; also printed at § 1.5, at p. 13.) · same rule printed at § 1.5

“Therefore, to the extent that AD Rule 10133.54 restricts the adjudicatory power of the WCAB, it is invalid, as it exceeds the statutory authority granted to the Administrative Director to administer the SJDB program.”

(Dennis, supra, citing Mendoza, supra, 75 Cal.Comp.Cases at pp. 640–641 (Appeals Bd. en banc); Navarro v. City of Montebello (2014) 79 Cal.Comp.Cases 418, 427 (Appeals Bd. en banc), at p. 13.)

“[R]equiring a party to file an appeal within a specified timeframe is not within the Administrative Director’s administrative authority because, as discussed above, this requirement restricts a party from accessing the jurisdiction of the WCAB.”

(Dennis, supra, at p. 15.) · same rule printed at § 1.5

“To the extent that AD Rule 10208.11 is viewed separately from AD Rule 10133.54, it would be invalid for the same reasons discussed herein.”

(Dennis, supra, fn. 13, at p. 12.)

“Our decision here does not address whether there could be an alternative dispute resolution process that is within the Administrative Director’s authority to implement in the context of SJDB disputes. (See AD’s Response, p. 3:20-4:1.) Our holding here is that AD Rule 10133.54, as written, is invalid.”

(Dennis, supra, at p. 16.)

“Nevertheless, both sections 4658.5(c) and 4658.7(h) restrict the Administrative Director to the administration of the SJDB.”

(Dennis, supra, at p. 13.)

“Section 4658.5(c) specifically authorizes the Administrative Director to adopt regulations governing “other matters necessary to the proper administration” of the SJDB. (§ 4658.5(c).) Read in conjunction with section 4658.7(h), which provides that the Administrative Director “shall adopt regulations for the administration” of the SJDB, we conclude that the Legislature did not create a statutory exception here, implied or expressed, to the WCAB’s exclusive adjudicatory powers.”

(Dennis, supra, at p. 13.)

“Specifically, the WCAB’s exclusive jurisdiction to adjudicate SJDB disputes is guided by the statutory limitations set forth in sections 4658.5, 4658.6, and 4658.7. These include limitations on the amount and usage of the voucher, expiration of the voucher, and exceptions to the entitlement of the voucher. (§§ 4658.5, 4658.6, 4658.7.) In other words, while the WCAB maintains exclusive jurisdiction to adjudicate SJDB disputes, this exclusive jurisdiction is subject to affirmative defenses and the statutory limitations as determined by the trier of fact in light of the evidence and applicable circumstances.”

(Dennis, supra, at p. 14.)

“We further observe that an initial determination of SJDB eligibility by the Administrative Director abrogates the WCAB’s exclusive adjudicatory power and is not consistent with the powers granted to the Administrative Director.”

(Dennis, supra, at p. 14.)

“For instance, we observe that the Administrative Director’s initial determination regarding disputed medical bills is distinct from an initial determination regarding SJDB disputes because the former is based on statute (§ 4603.6(f)) and the latter is based on a regulation (Cal. Code Regs., tit. 8, § 10133.54). . . . Thus, while the Administrative Director may properly make an initial determination regarding disputed medical bills, this is not the case with SJDB disputes.”

*(Dennis, supra, citing Lab. Code, § 4603.6(f); Cal. Code Regs., tit. 8, § 10133.54.; also printed at § 1.5, at p. 14.) · same rule
printed at § 1.5*

“We note that irrespective of the WCJ’s finding that applicant’s appeal from the Administrative Director’s presumed denial of his request for dispute resolution was untimely, the issue of applicant’s entitlement to SJDB is also properly before us because, as the Administrative Director admits in its Response, the Administrative Director’s alternative dispute resolution program is voluntary.”

(Dennis, supra, fn. 18, at p. 17.)

“Effective 2014, AD Rule 10294.5 was renumbered to 10208.11 without any changes. (Cal. Code Regs., tit. 8, § 10208.11.)”

(Dennis, supra, fn. 13, at p. 12.)

Cross-references: § 2.1 (exclusive jurisdiction); § 1.3 (validity of regulations); § 1.5 (the doctrine stated).

CHAPTER 16 · COMMENCING & MANAGING THE CASE

§ 16.2 Identification of Parties and Liable Entities; the *Coldiron* Disclosures

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 16.2, p. 39 (2026) ·

“Read together, WCAB Rules 10390, 10400 and 10401 ensure that all parties, representatives and liable entities are fully identified in each case.”

(*DiFusco, supra, at p. 12.*)

“Under WCAB Rule 10390, which renumbered and simplified former WCAB Rule 10550, all parties must fully disclose their own legal name, the name of their attorney or non-attorney representative, the name of the insurer and employer, and the third-party administrator, while clarifying that the third-party administrator is not a party.”

(*DiFusco, supra, at p. 12.*)

“WCAB Rule 10400, subdivision (b)(1) requires that all attorney representatives file a notice of representation or opening document that complies with WCAB Rule 10390 and includes “the name of the represented party.””

(*DiFusco, supra, at p. 12, citing Cal. Code Regs., tit. 8, § 10400(b)(1).*)

“As a matter of course, if an attorney represents multiple parties or entities, all names of each represented party or entity must be disclosed. WCAB Rule 10401 imposes similar requirements on non-attorney representatives.”

(*DiFusco, supra, at p. 12, citing Cal. Code Regs., tit. 8, § 10401.*)

HOLDING · COLDIRON I (2002) · EN BANC · BINDING · at p. 2

“[W]here an employer’s liability for workers’ compensation benefits is adjusted by a third-party administrator, the administrator must disclose to the Workers’ Compensation Appeals Board, to the other parties in any proceeding in which it is a party, and to its own counsel the identity of its client, whether a self-insured employer or insurance carrier. If the client is an insurance carrier, the administrator must disclose whether the policy includes a “high self-insured retention,” a large deductible, or any other provision that affects the identity of the entity actually liable for the payment of compensation. Failure of the administrator to disclose the identity of its client may subject it to sanctions pursuant to Labor Code section 5813.”

(Coldiron v. Compuware Corp. (2002) 67 Cal.Comp.Cases 289, 290–291 (Appeals Bd. en banc) [Coldiron I], as quoted in DiFusco, supra, at p. 2.) · same rule printed at § 14.1

“Fundamental to the establishment of workers’ compensation liability and the prompt delivery of benefits awarded to eligible injured workers is the designation of the responsible and liable entity. The responsible entity must be divulged at the earliest opportunity, and certainly no later than the commencement of the litigation process and formal proceedings. More specifically a third-party administrator must inform the Board and its counsel, if any, no later than at least the commencement of any litigation in the case, who the third-party administrator’s client is, whether a self-insured employer or an insurance carrier. In this manner, no confusion can result as to the liable entity, against whom an award for benefits will be made. It avoids unnecessary delays in the prompt delivery of benefits awarded.”

(Coldiron I, supra, 67 Cal.Comp.Cases at p. 294 (Appeals Bd. en banc), here quoted in full from the slip opinion; quoted in part in DiFusco, supra, at p. 6.)

HOLDING No. 3 · DIFUSCO (2025) · EN BANC · BINDING · at p. 2

“WCAB Rule 10390 does not supersede the Coldiron decisions. Defendants must comply with WCAB Rule 10390 and the disclosure requirements in Coldiron I and II, regardless of whether there is a third-party administrator.”

“[T]here is no basis to limit the disclosure requirements to third-party administrators.”

(DiFusco, supra, at p. 10.)

“It bears repeating that the Appeals Board, in issuing Coldiron I en banc was concerned with disclosure of the entity responsible for payment in all cases, including any limits on liability for payment, and not just those with a third-party administrator.”

(DiFusco, supra, at p. 10.)

“The burden to ascertain the identity of the entity liable for payment cannot be placed on the injured worker; the information is more readily available to a defendant, and the disclosure responsibility must lie with defendant.”

(DiFusco, supra, at p. 10.)

“We observe that information as to the proper defendant is within a defendant’s control, and not an applicant’s, so that it is incumbent upon a defendant to comply with this responsibility.”

(DiFusco, supra, at p. 12.)

“As outlined in Coldiron, and as further required by these rules, full disclosure of the names of each party or entity means that all essential parties are included in all awards, and so that awards are enforceable, a defendant must necessarily provide accurate information.”

(DiFusco, supra, at p. 12, citing Lab. Code, §§ 5806, 5807.)

“Defendants are required by the Labor Code to pay all compensation that is due. If a dispute arises about who is responsible to pay compensation, an identified defendant may nevertheless be held liable, and sanctions may be imposed until such time as another responsible party is identified.”

(DiFusco, supra, at p. 14.)

HOLDING · COLDIRON II (2002) · EN BANC · BINDING · at p. 5

“We emphasize, however, that our decision not to impose sanctions in this particular case does not in any way abrogate, diminish, limit or abridge our essential holding that a third party administrator must promptly disclose the identity of its client and, if the client is an insurance carrier, the administrator must disclose whether the policy includes a “high self-insured retention,” a large deductible, or any other provision that affects the identity of the entity actually liable for compensation. These holdings remain in full force and effect, and the third party administrators (or their counsel and/or representative) who do not comply with these holdings may be subject to sanctions.”

(Coldiron v. Compuware Corp. (2002) SRO 0088351, 67 Cal.Comp.Cases 1466 (Appeals Bd. en banc) [Coldiron II], at p. 1470; here quoted in full from the slip opinion; quoted in part in DiFusco, supra, at p. 5.)

“The WCJ has a duty to inquire and ensure that the record reflects the correct identity of all parties, at first opportunity, including at the mandatory settlement conference and at trial.”

(DiFusco, supra, at p. 14.)

“[T]he WCJ must exercise oversight to ensure that at the time an award or decision is issued, if applicant has sought this information, that defendant has disclosed and properly identified all liable entities and the relevant insurance policy details, in compliance with *Coldiron I* and this decision.”

(DiFusco, supra, at p. 14.)

“WCJs are nevertheless responsible for ensuring that the legally correct names of parties and liable entities appear in case captions, rather than shortened or otherwise incorrect names found in EAMS.”

(DiFusco, supra, at p. 14, fn. 11.)

“[L]ien claimants and applicants are similarly entitled to this information, and similarly unable to access it without disclosure by the defendant.”

(DiFusco, supra, at p. 11, fn. 7.)

“Labor Code section 3700 enumerates the various ways by which employers must secure payment of workers’ compensation benefits, including insurance and self-insurance.”

(Coldiron I, supra, fn. 3, at p. 2.)

Cross-references: § 1.2 (why *Coldiron* still binds); § 17.1 (the discovery route to the same information); § 22.1 (policy provisions affecting liability); § 14.9 (sanctions generally); § 14.1 (sanctions for nondisclosure).

§ 16.3 Pleadings: Informality, Liberal Construction, Amendment to Conform to Proof

• settled · en banc; Supreme Court and appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 16.3, p. 43 (2026) ·

“The workers’ compensation system “was intended to afford a simple and nontechnical path to relief.””

(*Perez, supra, at p. 9, quoting Elkins v. Derby* (1974) 12 Cal.3d 410, 419.)

“Generally, “the informality of pleadings in workers’ compensation proceedings before the Board has been recognized.””

(*Perez, supra, at p. 9, quoting Zurich Ins. Co. v. Workmen’s Comp. Appeals Bd.* (1973) 9 Cal.3d 848, 852.)

““[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee’s entitlement to rehabilitation benefits.””

(*Martino v. Workers’ Comp. Appeals Bd.* (2002) 103 Cal.App.4th 485, 490, as quoted in *Perez, supra, at p. 9.*)

“Courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction.”

(*Perez, supra, at p. 9, citing Rubio v. Workers’ Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200–201; *Liberty Mutual Ins. Co. v. Workers’ Comp. Appeals Bd.* (1980) 109 Cal.App.3d 148, 152–153.)

““Necessarily, failure to comply with the rules as to details is not jurisdictional.””

(*Rubio, supra, at pp. 200–201, as quoted in Perez, supra, at p. 9; see Cal. Code Regs., tit. 8, § 10517.*)

“Therefore, in workers’ compensation proceedings, it is settled law that (1) pleadings may be informal. (Zurich Ins. Co., *supra*, 9 Cal.3d at p. 852; Beaida v. Workmen’s Comp. Appeals Bd. (1968) 263 Cal.App.2d 204, 207–210 [33 Cal.Comp.Cases 345]); (2) claims should be adjudicated based on substance rather than form (Bland, *supra*, 3 Cal.3d at pp. 328–334; Martino, *supra*, 103 Cal.App.4th at p. 491; (3) pleadings should be liberally construed so as not to defeat or undermine an injured employee’s right to make a claim (Sarabi v. Workers’ Comp. Appeals Bd. (2007) 151 Cal.App.4th at pp. 925–926 [72 Cal.Comp.Cases 778]); Martino, *supra*, 103 Cal.App.4th at p. 490; and (4) technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction (Bland, *supra*, 3 Cal.3d at pp. 331–332).”

(*Perez, supra*, at p. 9 [internal citations in original].)

“These principles of liberal pleading are further reflected in section 5506, which authorizes the Appeals Board to relieve a defendant from default or dismissal due to mistake, inadvertence, surprise or excusable neglect in accordance with Code of Civil Procedure section 473.”

(*Perez, supra*, at p. 9.)

“[T]he Court of Appeal has made it clear that the protections afforded under Code of Civil Procedure section 473(b) are applicable in workers’ compensation proceedings.”

(*Perez, supra*, at p. 10, citing *Fox v. Workers’ Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196.)

“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.””

(*Perez, supra*, at p. 10, quoting *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.”

(*Perez, supra*, at p. 10, citing *Cal. Code Regs., tit. 8, § 10517*.)

“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.”

(*Perez, supra*, at p. 10.)

“In workers’ compensation proceedings, pleadings are liberally construed and may be amended to conform to proof.”

(*Perez, supra, at p. 6.*)

“Therefore, based on these principles, 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.”

(*Perez, supra, at p. 10.*)

“WCAB Rule 10515 specifically disallows “[d]emurrers, petitions for judgment on the pleadings and petitions for summary judgment.””

(*Perez, supra, at p. 10, quoting Cal. Code Regs., tit. 8, § 10515.*)

Cross-references: § 16.2 (identification of parties); § 17.1 (informality of evidence: §§ 5708–5709); § 20.2 (due process before the Board).

§ 16.9 Walk-Through Settlements; Notices of Intention

• settled · en banc quoting regulation · quotations verified 8/24/26 · cite: *Blackletter* § 16.9, p. 45 (2026) ·

“A workers’ compensation judge who is presented with a walk-through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action.”

(*Cal. Code Regs., tit. 8, § 10789(e), as quoted in Gaines, supra, at p. 16.*)

“[A]ll supporting medical reports and other supporting documents not previously filed, shall be filed directly with the workers’ compensation judge at the date and time of the walk-through.”

(*Cal. Code Regs., tit. 8, § 10789(b)(1), as quoted in Gaines, supra, at p. 20.*)

“[A]ny order for an applicant to attend an evaluation may only issue after providing notice to the parties. (Cal. Code Regs., tit. 8, § 10832.) No such order may issue within an OSA.”

(*Gaines, supra, at p. 21.*)

“Section 5701 allows the WCJ to “cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or . . . direct any employee claiming compensation to be examined by a regular physician.””

(Perez, supra, at p. 8, quoting Lab. Code, § 5701; see also Lab. Code, § 5906.)

“Further, if a medical evaluation is required to determine adequacy, such an evaluation may only be ordered after an evidentiary hearing has occurred, and the WCJ establishes a basis for such an order. Sections 4060 et seq. set forth the preferred framework for obtaining medical-legal reporting, and even though it is within the power of the WCJ to order applicant to be examined by a regular physician under section 5701, such procedures are generally used to resolve medical disputes after the parties have proceeded through the ordinary channels of discovery.”

(Gaines, supra, at p. 21, citing Lab. Code, §§ 4060 et seq., 5701 [seeds ch. 9].)

“WCAB 10563 (Cal. Code Regs., tit. 8, § 10563) requires that the defendant shall have settlement authority at the MSC but the person with that authority need not be present if such authority is available by telephone.”

(Coldiron I, supra, fn. 5 [the 2002 rule numbering; settlement authority at the mandatory settlement conference], at p. 3.)

Cross-references: §§ 19.2–19.3 (the OSA and the hearing); § 20.1 (record discipline at walk-throughs). See also §§ 16.2–16.3. Remainder of chapter: *reserved*.

CHAPTER 17 · DISCOVERY & EVIDENCE

§ 17.1 Discovery: Liberal Policy; No Good-Cause Showing for Routine Requests

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 17.1, p. 47 (2026) ·

“Our holding herein is consistent with the public policy favoring liberal pre-trial discovery that may reasonably lead to relevant and admissible evidence applicable in workers’ compensation cases.”

(*DiFusco, supra, at p. 15, citing Allison v. Workers’ Comp. Appeals Bd. (1999) 72 Cal.App.4th 654, 663.*)

“We emphasize that in workers’ compensation proceedings, the Labor Code makes explicit that the WCJ and the Appeals Board have greater discretion with respect to evidentiary matters than courts in civil proceedings, and not narrower discretion as defendant appears to believe.”

(*DiFusco, supra, at p. 15.*)

“Section 5708 mandates that we are not “bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division.””

(*DiFusco, supra, at p. 15, quoting Lab. Code, § 5708.*)

“Section 5709 specifically allows informality in our proceedings and ensures that “admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the common law or statutory rules of evidence and procedure” will not invalidate an order, decision or award.”

(*DiFusco, supra, at p. 15, citing Lab. Code, § 5709.*)

“Unlike a discovery request where the right to privacy or another privilege is implicated, proof of good cause is not required for a routine discovery request such as the one here.”

(*DiFusco, supra, at p. 15.*)

“[A]pplicant has a right to the insurance coverage information and potentially liable parties purely by way of a discovery request for relevant information, even without the consideration of the specific disclosure requirements detailed herein.”

(*DiFusco, supra, at p. 15.*)

“Under the Civil Discovery Act, discovery is generally available “regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action. . . .”

(*DiFusco, supra*, at p. 15, fn. 13, quoting *Code Civ. Pro.*, § 2017.101 [*sic*; see *Code Civ. Proc.*, § 2017.010].)

“The underlying principle of liberal discovery supports our duty to ensure substantial justice and to further develop the record where there is insufficient evidence on an issue.”

(*DiFusco, supra*, at p. 15, fn. 12, citing *Kuykendall v. Workers’ Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403; *McClune v. Workers’ Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121–1122.)

“The Appeals Board may not leave matters undeveloped where it is clear that additional discovery is needed.”

(*DiFusco, supra*, at p. 15, fn. 12, citing *Kuykendall, supra*, at p. 404.)

“All hearings and investigations before the appeals board or a workers’ compensation judge are governed by this division and by the rules of practice and procedures adopted by the appeals board. In the conduct thereof they shall not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division. All oral testimony, objections, and rulings shall be taken down in shorthand by a competent phonographic reporter.”

(*Lab. Code*, § 5708, as quoted in full in *Perez, supra*, at p. 8.)

“No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, or rule made and filed as specified in this division. No order, decision, award, or rule shall be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the common law or statutory rules of evidence and procedure.”

(*Lab. Code*, § 5709, as quoted in full in *Perez, supra*, at p. 9.)

“Although workers’ compensation proceedings are not strictly “bound by the common law or statutory rules of evidence and procedure,” the Code of Civil Procedure may provide guidance in governing workers’ compensation proceedings in a manner “which is best calculated to...carry out justly the spirit and provisions of this division.””

(*Suon v. California Dairies* (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (*Appeals Bd. en banc*), quoting *Lab. Code*, § 5708; citing *City of Anaheim v. Workers’ Comp. Appeals Bd. (Beteag)* (1981) 116 Cal.App.3d 248, 255, at p. 11.)

Cross-references: § 1.3 (rulemaking authority: § 5708); § 16.2 (the *Coldiron* disclosures); § 22.1 (insurance policy information); § 20.1 (the admitted record); § 9.5 (information to evaluators).

CHAPTER OVERVIEW · SPECIMEN COMMENTARY — not citable until signed · citable as attributed commentary — cite: [Author], Overview, Blackletter ch. 19 (2026) · the quotations below remain the treatise text

Chapter 19 holds the law of settlement — and in 2026 it is a chapter in motion. The *Gaines* en banc decision reset the ground rules of settlement approval: no agreement binds anyone until a judge approves it (§ 19.1); a settlement is a contract and is tested as one (§ 19.2); a judge with adequacy concerns may suspend action and, where information does not come, may build a record by hearing rather than by ultimatum (§ 19.3); adequacy review protects the worker and the public — not the carrier (§ 19.4); the medicals must be filed and may never be withheld (§ 19.5); and a stipulation is not held to substantial-evidence proof (§ 19.6). Readers valuing a settlement should begin at § 19.4; readers responding to an order suspending action should begin at § 19.3.

— *[Contributing Editor: this seat is reserved for a California workers' compensation attorney; specimen text by the compiler, to be replaced and signed by the chapter's contributing editor]*

CHAPTER 19 · SETTLEMENT

§ 19.1 No Settlement Without Approval

• settled · statute; Supreme Court; en banc · quotations verified 8/24/26 · cite: *Blackletter* § 19.1, p. 50 (2026) ·

“[N]o release of liability or compromise agreement is valid unless it is approved by the appeals board or referee.”

(Lab. Code, § 5001, as quoted in Gaines, supra, at p. 17.)

HOLDING No. 1 · GAINES (2026) · EN BANC · BINDING · at p. 2

“A workers’ compensation settlement is only enforceable after approval by the Workers’ Compensation Appeals Board. In approving a settlement, a WCJ must consider whether the agreement is valid and must determine whether the settlement is adequate in order to protect the injured worker and the public interest.”

“A tort release is effective upon execution, but a compromise and release of workmen’s compensation liability is invalid until approved... This inquiry by the referee should carry out the legislative objective of ‘protecting workmen who might agree to unfortunate compromises because of economic pressure or lack of competent advice.’ ... These safeguards against improvident releases place a workmen’s compensation release upon a higher plane than a private contractual release; it is a judgment, with ‘the same force and effect as an award made after a full hearing.’”

(Johnson v. Workmen’s Comp. Appeals Bd. (1970) 2 Cal.3d 964, 973, quoting Chavez v. Industrial Acc. Com. (1958) 49 Cal.2d 701, 702, and Raischell & Cottrell, Inc. v. Workmen’s Comp. App. Bd. (1967) 249 Cal.App.2d 991, 997; as quoted in Gaines, supra, at p. 17; accord Camacho v. Target (2018) 24 Cal.App.5th 291, 301–302 [as cited therein].)

Cross-references: § 1.1 (the weight of en banc decisions).

§ 19.2 Validity: A Settlement Is a Contract

• settled · en banc; appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 19.2, p. 51 (2026) ·

“[T]he legal principles governing compromise and release agreements are the same as those governing other contracts.” ... “For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties, and an acceptance by the other.”

(Burbank Studios v. Workers’ Comp. Appeals Bd. (Yount) (1982) 134 Cal.App.3d 929, 935, as quoted in Gaines, supra, at p. 19; see Civ. Code, §§ 1550, 1565, 1580 [as cited therein].)

“A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.”

(County of San Joaquin v. Workers’ Compensation Appeals Bd. (Sepulveda) (2004) 117 Cal.App.4th 1180, 1184, as quoted in Gaines, supra, at p. 19.)

“[T]he WCJ’s jurisdiction to approve a settlement is only as to those benefits provided by the Labor Code, and a settlement of any claims outside of the Labor Code is not enforceable.”

(Gaines, supra, at p. 22.)

“The WCAB’s jurisdiction is over claims for benefits provided in the Labor Code, and the WCAB has jurisdiction to approve settlement of claims for benefits that are provided by the Labor Code.”

(Gaines, supra, at p. 18 [seeds ch. 2].)

“A proposed contract to settle a claim is in lieu of an award of compensation and the WCAB must determine whether it is valid.”

(Gaines, supra, at p. 19, citing Lab. Code, §§ 5000–5003.)

“Section 5003 states that every C&R shall contain the following information: (a) The date of the accident. (b) The average weekly wages of the employee, determined according to Chapter 1 of Part 2 of this division. (c) The nature of the disability, whether total or partial, permanent or temporary. (d) The amount paid, or due and unpaid, to the employee up to the date of the release or agreement or death, and the amount of the payment or benefits then or thereafter to be made. (e) The length of time such payment or benefit is to continue. (f) In the event a claim of lien under subdivision (f) or (g) of Section 4903 has been filed, the number of days and the amount of temporary disability indemnity which should be allowed to the lien claimant.”

(Lab. Code, § 5003, as quoted in Gaines, supra, at p. 17.)

“The injured worker must have knowledge of each of the benefits that they may be entitled to, and they must intend to release those claims for benefits. Mere execution of the form is not sufficient.”

(Gaines, supra, at p. 18, citing Camacho v. Target (2018) 24 Cal.App.5th 291, 301.)

“The preprinted form does not release claims that are outside of workers’ compensation, and even if a separate document is executed by the parties, the WCAB cannot approve a settlement of claims that are outside of the Labor Code.”

(Gaines, supra, at p. 18.)

“Thus, where the terms of the agreement are unclear or contradictory, or include provisions that are outside the Labor Code, the issue is whether a true contract has been formed.”

(Gaines, supra, at p. 19.)

“Pursuant to section 5500.5, all employers in a single cumulative injury are to be joined in a single action. While applicant is free to settle against one employer and pursue their claim against the others (§ 5500.5(c)), the employers must be joined in a single case as they have the right to be notified of any election or settlements made.”

(Gaines, supra, at p. 10, fn. 6, citing Lab. Code, § 5500.5 [seeds chs. 5, 16].)

Cross-references: § 2.1 (exclusive jurisdiction of the wcab); § 16.9 (walk-through settlements; notices of intention).

§ 19.3 The Order Suspending Action and the Adequacy Hearing

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 19.3, p. 53 (2026) ·

HOLDING No. 2 · GAINES (2026) · EN BANC · BINDING · at p. 2

“Where the terms of the settlement are inconsistent, do not comply with the Labor Code, and / or are inadequate, the WCJ may investigate by issuing an order suspending action, and if the parties do not provide sufficient information, the WCJ may hold a hearing to create an evidentiary record that establishes the adequacy of a settlement.”

“The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the appeals board. The appeals board may thereupon make its findings and award based upon such stipulation, or may set the matter down for hearing and take further testimony or make the further investigation necessary to enable it to determine the matter in controversy.”

(Lab. Code, § 5702, as quoted in Gaines, supra, at p. 15.)

“(b) The Workers’ Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.”

(Cal. Code Regs., tit. 8, § 10700(b), as quoted in Gaines, supra, at p. 18.)

“After reviewing a proposed settlement, the WCJ may issue an OSA.”

(Gaines, supra, at p. 16, citing Cal. Code Regs., tit. 8, §§ 10700(b), 10789(e).)

“An OSA more commonly issues where a minor error has occurred, which can be easily corrected without a formal hearing. In such a case, the OSA operates in a similar manner as a notice of intent.”

(Gaines, supra, at p. 16, citing Cal. Code Regs., tit. 8, § 10832.)

“This is generally an accepted practice, particularly since workers’ compensation proceedings have traditionally proceeded with a degree of informality.”

(Gaines, supra, at p. 16, citing Lab. Code, §§ 5708, 5709.)

“When a settlement is submitted for approval, it is submitted as a stipulation that is signed by all parties, with a joint request that the stipulation be approved. (§ 5702.) There is generally no issue of due process when a WCJ approves a joint request of the parties.”

(Gaines, supra, at p. 15.)

“[W]hen the WCJ intends to reject a settlement or requires additional information before approving a settlement, the WCJ must provide adequate due process, which includes notice and an opportunity to be heard.”

(Gaines, supra, at p. 15.)

“[A]n evidentiary hearing should be set where the terms of the agreement are unclear, contradictory, include provisions that are outside the Labor Code, the concern over adequacy is significant, and / or the parties fail to provide a sufficient response to the OSA.”

(Gaines, supra, at p. 16.)

“Where the record does not adequately explain the value of the settlement, the WCJ may properly request supporting materials, including relevant medical records, civil case information in limited circumstances, and documentation supporting a request for attorney’s fees, and may delay approval until sufficient information is provided. However, the WCJ may not use an order suspending action to compel medical evaluations, dismissal with prejudice, or a reduction of attorney’s fees without notice, due process, and an appropriate record. The governing inquiry is whether the settlement is adequately supported by the information submitted, and if it is not, the proper remedy is to develop the record through appropriate procedures, including a hearing to create an evidentiary record.”

(Gaines, supra, at p. 23.)

“We would also note that a dismissal with prejudice is generally reserved for cases that are being dismissed on the merits. Where a party seeks dismissal based on reasons other than the merits of litigation, e.g. lack of prosecution, the appropriate order is dismissal without prejudice.”

(Gaines, supra, at p. 22, fn. 10 [seeds ch. 16].)

“Pursuant to section 5702, the WCJ may seek further information or may set a hearing.”

(Gaines, supra, at p. 16, citing Lab. Code, § 5702.)

Cross-references: § 1.1 (the weight of en banc decisions).

§ 19.4 What Adequacy Review Protects; What It Does Not

• settled · en banc; Supreme Court as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 19.4, p. 55 (2026) ·

“It has long been held that a C&R must provide fair compensation to the injured worker equivalent to what the injured worker would expect to receive from an award”

(*Gaines, supra, at p. 17.*)

“The purpose of an award is not to make the employee whole for the loss which he or she has suffered, but to prevent the employee and his or her dependents from becoming public charges during the period of disability.”

(*Department of Rehabilitation v. Workers’ Comp. Appeals Bd. (2003) 30 Cal.4th 1281, 1286, as quoted in Gaines, supra, at p. 18.*)

“Where benefits are due, they should be paid and the WCJ should ensure that payable benefits are not inappropriately shifted onto public systems, for example, Medicare, Medi-Cal, EDD, and Social Security. Adequacy review has the dual purpose of ensuring that an injured worker is appropriately paid benefits, which in turn benefits the public.”

(*Gaines, supra, at p. 18.*)

“If there is information in the record that indicates that an insurance company might be overvaluing a claim, that suggests that the settlement is adequate and that the WCJ should approve the settlement.”

(*Gaines, supra, at p. 22.*)

“To determine whether benefits are adequately paid, a WCJ requires information. The WCJ may not simply approve any settlement filed. The WCJ must independently review the settlement and determine that the settlement is adequate.”

(*Gaines, supra, at p. 19.*)

“(c) Agreements that provide for the payment of less than the full amount of compensation due or to become due and undertake to release the employer from all future liability will be approved only where it appears that a reasonable doubt exists as to the rights of the parties or that approval is in the best interest of the parties.”

(*Cal. Code Regs., tit. 8, § 10700(c), as quoted in Gaines, supra, at p. 18.*)

“Workers’ compensation was created, in part, to prevent an injured worker from becoming a public ward.”

(*Gaines, supra, at p. 18.*)

Cross-references: § 14.9 (what adequacy review is *not* for: protecting carriers from overpaying); § 19.5 (information bearing on adequacy).

§ 19.5 Information Bearing on Adequacy: Medicals, Civil Actions, Scope

• settled · en banc; regulation as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 19.5, p. 56 (2026) ·

“When filing a Compromise and Release or a Stipulations with Request for Award, the filing party shall file all agreed medical evaluator reports, qualified medical evaluator reports, treating physician reports, and any other [medical records] that are relevant to a determination of the adequacy... that have not been filed previously.”

(*Cal. Code Regs., tit. 8, § 10700(a), as quoted in Gaines, supra, at p. 20.*)

“Parties may not withhold relevant medical records and / or either intentionally or negligently misrepresent that no such medical records exist.”

(*Gaines, supra, at p. 20.*)

“[The civil-case inquiry] could be appropriate in circumstances where the civil case overlaps with the workers’ compensation case, giving rise to a possible third-party credit... However, the WCJ’s inquiry should be limited in scope to address the issue of adequacy and whether any third-party credit exists or may exist, and it should take place on the record.”

(*Gaines, supra, at p. 22, citing Lab. Code, §§ 3850 et seq. [seeds Ch. 23].*)

“We emphasize that how much information is required to support adequacy will depend on the facts of each individual case.”

(*Gaines, supra, at p. 19.*)

“The WCJ reviewing adequacy is considering a multitude of issues, including valuation of future medical treatment, temporary disability, permanent disability, a supplemental job displacement voucher, and death benefits. The WCJ may also consider threshold issues as to whether compensation is due, such as employment, the statute of limitations, and affirmative defenses.”

(*Gaines, supra, at p. 19.*)

“Parties should file supporting, relevant medicals at the time they file a settlement.”

(*Gaines, supra, at p. 20.*)

“[T]he parties may wish to provide a statement from applicant, witness statements, depositions, recorded video of an injury, claim benefit letters including any denial letter, or any other information that will assist the WCJ in determining adequacy.”

(*Gaines, supra, at p. 20.*)

“The fact that an injured worker may wish to forego litigation and settle their claim provides no information to the WCJ as to how the claim should be valued. If the parties fail to provide enough information, they should expect approval of their settlement to be delayed so that the WCJ may obtain the necessary information either through issuance of an OSA, or through a formal hearing.”

(*Gaines, supra, at p. 20.*)

Cross-references: § 19.4 (what adequacy review protects; what it does not).

§ 19.6 Stipulations Are Not Held to Substantial-Evidence Proof

• settled · en banc; appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 19.6, p. 57 (2026) ·

“One issue raised by the WCJ in these cases is the misconception that substantial medical evidence is required to determine adequacy of a stipulation. That is not true. Stipulations exist, in part, to obviate the need for evidence.”

(*Gaines, supra, at p. 21, citing County of Sacramento v. Workers’ Comp. Appeals Bd. (Weatherall) (2000) 77 Cal.App.4th 1114, 1121.*)

“There is no requirement that substantial medical evidence support a stipulation. The only requirement for adequacy review is that sufficient information exists in the formal record to support a WCJ’s decision on adequacy.”

(*Gaines, supra, at p. 21.*)

“A stipulation is ‘An agreement between opposing counsel . . . ordinarily entered into for the purpose of avoiding delay, trouble, or expense in the conduct of the action,’ (Ballentine, Law Dict. (1930) p. 1235, col. 2) and serves ‘to obviate need for proof or to narrow range of litigable issues’ (Black’s Law Dict. (6th ed. 1990) p. 1415, col. 1) in a legal proceeding.”

(Weatherall, supra, 77 Cal.App.4th at p. 1119, as quoted in Gaines, supra, at p. 21.)

“The parties need only provide relevant information to permit the WCJ to determine adequacy.”

(Gaines, supra, at p. 21.)

Cross-references: § 1.1 (the weight of en banc decisions).

CHAPTER 20 · TRIAL & THE RECORD

§ 20.1 Decisions Rest on the Admitted Record

• settled · en banc; statute; appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 20.1, p. 59 (2026) ·

“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), as quoted in Gaines, supra, at p. 15.)

“[D]ecisions of the Appeals Board must be supported by substantial evidence.”

(Gaines, supra, at p. 15, citing Lab. Code, §§ 5903, 5952(d); Lamb v. Workmen’s Comp. Appeals Bd. (1974) 11 Cal.3d 274; Garza v. Workmen’s Comp. Appeals Bd. (1970) 3 Cal.3d 312; LeVesque v. Workmen’s Comp. Appeals Bd. (1970) 1 Cal.3d 627.)

“An adequate and complete record is necessary to understand the basis for the WCJ’s decision.”

(Gaines, supra, at p. 15, citing Lab. Code, § 5313; Cal. Code Regs., tit. 8, § 10787.)

“[O]ther than medical reporting which automatically becomes part of the record of proceedings under WCAB Rule 10803... any other information provided to the WCJ is not part of the record of proceedings and is not admitted as evidence. In particular, WCJs should be mindful that oral statements presented at a walk-through are not part of the court’s record.”

(Gaines, supra, at p. 20.)

“Workers’ compensation does not permit judgment on the pleadings.”

(Gaines, supra, at p. 16, citing Cal. Code Regs., tit. 8, § 10515.)

“A WCJ cannot look beyond the settlement itself or the record of proceedings in determining adequacy.”

(Gaines, supra, at p. 16, citing Cal. Code Regs., tit. 8, § 10803.)

“The Appeals Board cannot review the adequacy of a settlement without a formal record.”

(Gaines, supra, at p. 16, citing Hamilton, supra.)

“This creates significant problems, particularly in cases where a party seeks to set aside the settlement, because there is no record to review. Thus, it may be more appropriate to set a hearing and admit such evidence so that the basis for a determination that the settlement is adequate is clear.”

(*Gaines, supra, at p. 20* [*seeds ch. 25*].)

“The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue.”

(*Perez, supra, at p. 7, citing McClune v. Workers’ Comp. Appeals Bd. (1998) 62 Cal.App.4th 1117, 1121–1122.*)

Cross-references: § 16.9 (walk-through settlements; notices of intention); § 17.1 (discovery: liberal policy; no good-cause showing).

§ 20.2 Due Process Before the Board

• settled · en banc; appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 20.2, p. 60 (2026) ·

“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, as quoted in Gaines, supra, at p. 15.*)

“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, 635, fn. 22, as quoted in Gaines, supra, at p. 15; see Fortich v. Workers’ Comp. Appeals Bd. (1991) 233 Cal.App.3d 1449, 1452–1454 [as cited therein].*)

“As a matter of due process, 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.”

(*Perez, supra, at p. 7, citing Rucker v. Workers’ Comp. Appeals Bd. (2000) 82 Cal.App.4th 151, 157–158.*)

““Due process requires notice and a meaningful opportunity to present evidence in regards to the issues.””

(*Rea v. Workers’ Comp. Appeals Bd. (Milbauer) (2005) 127 Cal.App.4th 625, 643, as quoted in Perez, supra, at p. 7.*)

“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.”

(Perez, supra, at p. 7, citing Gangwish v. Workers’ Comp. Appeals Bd. (2001) 89 Cal.App.4th 1284, 1295; Rucker, supra, at pp. 157–158; Kaiser Co. v. Industrial Acc. Com. (Baskin) (1952) 109 Cal.App.2d 54, 58; Katzin v. Workers’ Comp. Appeals Bd. (1992) 5 Cal.App.4th 703, 710.)

“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, as quoted in Perez, supra, at p. 7.)

“It is the policy of the law to favor, whenever possible, a hearing on the merits.”

(Perez, supra, at p. 7, citing Fox, supra, 4 Cal.App.4th at p. 1205; Shamblin v. Brattain (1988) 44 Cal.3d 474, 478.)

“‘[W]hen 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.’”

(Shamblin, supra, at p. 478, as quoted in Perez, supra, at p. 7.)

“This is particularly true in workers’ compensation cases, where there is a constitutional mandate “to accomplish substantial justice in all cases.” (Cal. Const., art. XIV, § 4.)”

(Perez, supra, at p. 7.)

““The principal purpose of vesting the court with the discretionary power to correct ‘a mistake in any other respect’ is to enable it to mold and direct its proceedings so as to dispose of cases upon their substantial merits, when it can be done without injustice to either party, whether the obstruction to such a disposition of cases be a mistake of fact or a mistake as to the law, although it may be that the court should require a stronger showing to justify relief from the effect of a mistake of law than of a mistake of fact.””

(Ward v. Clay (1890) 82 Cal. 502, as quoted in Perez, supra, at p. 8; see Dunzweiler v. Superior Court (1968) 267 Cal.App.2d 569, 577.)

Cross-references: § 16.3 (pleadings: informality, liberal construction, am); § 20.3 (electronic witness testimony (rule 10817)).

§ 20.3 Electronic Witness Testimony (Rule 10817)

● preliminary · en banc order granting reconsideration; final decision deferred · quotations verified 8/24/26 · cite:
Blackletter § 20.3, p. 62 (2026) ·

““If a witness intends to testify electronically, a petition showing good cause shall be filed pursuant to rule 10510 by the witness or by the party offering the witness’s testimony before the hearing, and shall identify the witness and contain the witness’s full legal name””

(Cal. Code Regs., tit. 8, § 10817(a), as quoted in Perez, supra, at p. 6.)

“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.”

(Perez, supra, at p. 10.)

**PRELIMINARY CONCLUSION No. 1 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION
DEFERRED · at p. 10**

“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.”

(Perez, supra, at p. 10 [construing Rule 10817(a), as corrected by Opn. and Order Correcting Clerical Error (Aug. 14, 2025)].)

**PRELIMINARY CONCLUSION No. 2 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION
DEFERRED · at p. 10**

“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.”

**PRELIMINARY CONCLUSION No. 3 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION
DEFERRED · at p. 10**

“when a witness is unable to appear in person, as a matter of due process, a request to testify electronically should be readily permitted.”

Cross-references: § 20.2 (due process and the fair hearing); § 16.3 (pleadings judged on substance); § 21.3 (finality of interlocutory orders).

CHAPTER 21 · RECONSIDERATION, REMOVAL & JUDICIAL REVIEW

§ 21.2 Reconsideration: The Sixty-Day Period After Transmission (§ 5909)

• settled · en banc; statute as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 21.2, p. 64 (2026) ·

“[A] petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing.”

(*Perez, supra, at p. 2, describing former Lab. Code, § 5909.*)

“(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.”

(*Lab. Code, § 5909, as amended eff. July 2, 2024, as quoted in Perez, supra, at p. 2.*)

“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.”

(*Perez, supra, at p. 3.*)

“Transmission is reflected in Events in the Electronic Adjudication Management System (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.””

(*Perez, supra, at p. 3.*)

“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 and Recommendation shall be notice of transmission.”

(*Perez, supra, at p. 3.*)

“Section 5909(b)(2) provides that service of the Report shall be notice of transmission.”

(*Vazquez, supra, at p. 7.*)

Cross-references: § 21.3 (effect of a grant); §§ 21.8–21.10 (removal, consolidation, disqualification); § 1.4 (construction of the amended § 5909). Remainder of chapter: *reserved*.

§ 21.3 Grant of Reconsideration: Effect, Continuing Jurisdiction, and Finality

• settled · en banc; Supreme Court and appellate as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 21.3, p. 65 (2026) ·

“A grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (Great Western Power Co. v. Industrial Acc. Com. (Savercool) (1923) 191 Cal.724, 729 [10 Industrial Acc. Com. 322]) and of “[throwing] the entire record open for review.””

(*Perez, supra, at p. 11, quoting Great Western Power Co. v. Industrial Acc. Com. (Savercool) (1923) 191 Cal. 724, 729; State Comp. Ins. Fund v. Industrial Acc. Com. (George) (1954) 125 Cal.App.2d 201, 203.*)

“Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it.”

(*Perez, supra, at p. 11, citing Lab. Code, §§ 5907, 5908, 5908.5; Gonzales v. Industrial Acc. Com. (1958) 50 Cal.2d 360, 364.*)

““[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.””

(*Gonzales, supra, at p. 364, as quoted in Perez, supra, at p. 11.*)

“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”

(*Lab. Code, § 5803, as quoted in Perez, supra, at p. 11.*)

““The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.””

(*Azadigian v. Workers’ Comp. Appeals Bd. (1992) 7 Cal.App.4th 372, 374, as quoted in Perez, supra, at p. 11.*)

“A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (Rymer v. Hagler (1989) 211 Cal.App.3d 1171, 1180; Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits.”

(Perez, *supra*, at p. 11 [internal citations in original].)

“Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders.”

(Perez, *supra*, at p. 11, citing *Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075.)

“No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied.”

(Lab. Code, § 5901, as quoted in Perez, *supra*, at p. 12.)

“We correct these clerical errors by virtue of this decision without granting reconsideration, as such errors may be corrected without further proceedings at any time.”

(Perez, *supra*, at p. 14, *Opn. and Order Correcting Clerical Error* (Aug. 14, 2025), citing *Toccalino v. Workers’ Comp. Appeals Bd.* (1982) 128 Cal.App.3d 543, 558.)

“Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.”

(Perez, *supra*, at p. 2.)

“Threshold issues include, but are not limited to, the following: injury arising out of and in the course of employment (AOE/COE); jurisdiction; the existence of an employment relationship; and statute of limitations.”

(Vazquez, *supra*, at p. 4, citing *Capital Builders Hardware, Inc. v. Workers’ Comp. Appeals Bd.* (Gaona) (2016) 5 Cal.App.5th 658, 662.)

“Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.”

(Vazquez, supra, at p. 4.)

“If a decision includes a determination of a “threshold” issue, then it is treated as a “final” decision, regardless of whether all issues are resolved or whether there is an ultimate decision on the right to benefits.”

(Vazquez, supra, at p. 5, citing Aldi v. Carr, McClellan, Ingersoll, Thompson & Horn (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Bd. en banc).)

“Where a decision contains both final and non-final determinations, it is a hybrid decision.”

(Vazquez, supra, at p. 5.)

“Thus, when a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the determination on the threshold issue is final and binding on the Appeals Board and all parties to the case.”

(Vazquez, supra, at p. 5.)

“When a petition is treated as one for reconsideration, then, the Appeals Board follows section 5908.5 and considers the merits of any final findings, awards, or orders. If the Appeals Board does not disturb the final finding, award, or order, or affirms it, the parties’ remedy is to seek appellate relief.”

(Vazquez, supra, at p. 5, citing Lab. Code, §§ 5908.5, 5950 et seq.)

“If no further relief is sought, the finding, award, or order, is binding on all parties as the “law of the case.””

(Vazquez, supra, at p. 5, citing Lab. Code, § 5904; Goodrich v. Industrial Acc. Com. (1943) 22 Cal.2d 604, 611.)

“However, where a petitioner challenges a WCJ’s determination regarding an interlocutory issue, the Appeals Board will apply the removal standard applicable to non-final decisions with respect to that issue.”

(Vazquez, supra, at p. 5.)

“Notably, decisions on interlocutory or interim issues by a WCJ or the Appeals Board may still be challenged by a petition for reconsideration once a final decision is issued.”

(*Vazquez, supra, at p. 5.*)

Cross-references: § 21.2 (the sixty-day period); ch. 25 (reopening & enforcement: *reserved*).

§ 21.8 Removal

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 21.8, p. 68 (2026) ·

“The appeals board may appoint one or more workers’ compensation administrative law judges in any proceeding, as it may deem necessary or advisable, and may refer, remove to itself, or transfer to a workers’ compensation administrative law judge the proceedings on any claim.”

(*Lab. Code, § 5310, as quoted in Gaines, supra, at p. 14.*)

“Removal is an extraordinary remedy rarely exercised by the Appeals Board.”

(*Gaines, supra, at p. 14, citing Cortez v. Workers’ Comp. Appeals Bd. (2006) 136 Cal.App.4th 596, 599, fn. 5; Kleemann v. Workers’ Comp. Appeals Bd. (2005) 127 Cal.App.4th 274, 280, fn. 2.*)

“This violates the parties’ due process rights, which constitutes irreparable harm and thus, removal is warranted.”

(*Gaines, supra, at p. 16 [re an OSA compelling medical evaluations without hearing].*)

“The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted.”

(*Vazquez, supra, at p. 5, citing Cal. Code Regs., tit. 8, § 10955(a); Cortez, supra; Kleemann, supra.*)

“A petitioner must also demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues.”

(*Vazquez, supra, at p. 5, citing Cal. Code Regs., tit. 8, § 10955(a).*)

“Removal is the appropriate procedural avenue to challenge a decision regarding disputes over what information to provide to the QME and ex parte communication with the QME.”

(Suon v. California Dairies (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc) [Holding No. 5], at p. 2.) · same rule printed at § 9.5

“A petition for reconsideration may only be taken from a “final” order, decision, or award.”

(Suon v. California Dairies (2018) ADJ9013590 et al., 83 Cal.Comp.Cases 1803 (Appeals Bd. en banc), citing Lab. Code, §§ 5900(a), 5902, 5903, at p. 17.)

Cross-references: § 21.2 (reconsideration: the sixty-day period after tran); § 9.5 (information disputes reach the Board by removal).

§ 21.9 Consolidation; Vacating an OSA

• settled · en banc; regulation as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 21.9, p. 69 (2026) ·

“Consolidation may be ordered by the Workers’ Compensation Appeals Board (‘WCAB’) on its own motion[.]”

(Cal. Code Regs., tit. 8, § 10396(b), as quoted in Gaines, supra, at p. 15; see § 10396(a) [common issues of fact and law; avoiding inconsistent orders].)

“[W]here no formal record exists, upon receipt of a petition for removal or reconsideration of an OSA, and consistent with WCAB Rules 10955 and 10961, the WCJ may vacate the OSA and set the matter for an evidentiary hearing.”

(Gaines, supra, at p. 16, citing Cal. Code Regs., tit. 8, §§ 10955(d), 10961.)

Cross-references: § 1.1 (the weight of en banc decisions).

§ 21.10 Disqualification of the WCJ

• settled · en banc; statute as quoted · quotations verified 8/24/26 · cite: *Blackletter* § 21.10, p. 69 (2026) ·

“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.”

(Gaines, supra, at p. 24; Lab. Code, § 5311.)

“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).)”

(Gaines, supra, at p. 24 [disqualification ordered on both grounds].)

“Every workers’ compensation administrative law judge shall abide by the Code of Judicial Ethics.”

(Cal. Code Regs., tit. 8, § 9721.1, as quoted in Gaines, supra, at p. 25; see Cal. Code Jud. Ethics, canons 1–3 [seeds ch. 24].)

“A judge shall uphold the integrity and independence of the judiciary.”

“A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.”

“A judge shall perform the duties of judicial office impartially, competently, and diligently.”

(Cal. Code Jud. Ethics, canons 1–3, as quoted in Gaines, supra, at p. 25 [seeds ch. 24].)

Cross-references: § 1.1 (the weight of en banc decisions).

CHAPTER 22 · INSURANCE & COVERAGE

§ 22.1 Disclosure of Insurance Policies and Provisions Affecting Liability

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 22.1, p. 71 (2026) ·

“When an applicant seeks information about the liable entity or the insurance policy provisions, the information should be readily provided.”

(*DiFusco, supra, at p. 14.*)

“Discovery must be provided regarding “the existence and contents of any agreement under which any insurance carrier may be liable,” including “the identity of the carrier and the nature and limits of the coverage.””

(*DiFusco, supra, at p. 15, fn. 13, quoting Code Civ. Proc., § 2017.210.*)

“[I]n a workers’ compensation matter, liability for payment of compensation to an applicant is an ongoing duty, that often stretches for many years after an underlying award is issued. This means that the ability to identify any parties that may potentially be liable to pay compensation in the future, and the parameters of that liability, is significantly more important in workers’ compensation proceedings.”

(*DiFusco, supra, at p. 15, fn. 13.*)

“[F]inal decisions of the WCAB may be converted to civil judgments, and without proper identification of the liable party or parties, an award may be rendered unenforceable.”

(*DiFusco, supra, at p. 16, fn. 14, citing Lab. Code, §§ 5806, 5807.*)

“The importance of the prompt designation of the liable entity is underscored in the instant case where it appears that the now disclosed carrier is in liquidation and the California Insurance Guarantee Association (CIGA) may have liability. (Ins. Code § 1063, et seq.)”

(*Coldiron v. Compuware Corp. (2002) SRO 0088351, 67 Cal.Comp.Cases 289 (Appeals Bd. en banc) [Coldiron I], at p. 6.*)

“[W]hether compliance with the provisions of the Insurance Code have been met (Ins. Code §§ 11650 et seq., particularly §§ 11657, 11659, and 11660.)”

(*Coldiron I, supra [the Insurance Code provisions governing employer–carrier arrangements], at p. 7.*)

Cross-references: § 16.2 (identification duties); § 17.1 (the discovery route); ch. 25 (enforcement of awards: *reserved*).

CHAPTER 24 · FRAUD, ETHICS & PROFESSIONAL CONDUCT

§ 24.6 Fraud Reporting; Criminal Proceedings Distinct

• settled · en banc; statute · quotations verified 8/24/26 · cite: *Blackletter* § 24.6, p. 72 (2026) ·

“If a defendant believes in good faith that a claim may involve fraud, defendant may take appropriate measures to report suspected fraud. (Cal. Ins. Code, § 1877.3(b).)”

(*Gaines, supra, at p. 22.*) · same rule printed at § 14.9

“Proceedings before the Appeals Board have no bearing upon subsequent criminal proceedings.”

(*Gaines, supra, at p. 22, fn. 11, citing Lab. Code, § 5006.*)

Cross-references: § 14.9 (the same fraud-reporting duty in the sanctions context; Ins. Code § 1877.3(b) also printed there).

CHAPTER 26 · ATTORNEY'S FEES

§ 26.1 The Reasonable Fee; the Board as Final Arbiter

• settled · en banc; statute · quotations verified 8/24/26 · cite: *Blackletter* § 26.1, p. 73 (2026) ·

“[N]o ‘charge, claim, or agreement for legal services . . . is enforceable, valid, or binding in excess of a reasonable amount. The appeals board may determine what constitutes a reasonable amount.’”

(Lab. Code, § 4906(a), as quoted in Gaines, supra, at p. 22.)

“Attorneys are prohibited from demanding or accepting a fee until the amount is approved by the Appeals Board.”

(Gaines, supra, at p. 22, citing Vierra v. Workers’ Comp. Appeals Bd. (2007) 154 Cal.App.4th 1128, 1131.)

“The Legislature has thus spoken clearly and decisively that attorney fees in workers’ compensation cases cannot exceed an amount that is ‘reasonable’ and that the WCAB shall be the final arbiter of reasonableness in all cases.”

(Vierra, supra, 154 Cal.App.4th at p. 1131, as quoted in Gaines, supra, at p. 23.)

“In establishing a reasonable attorney’s fee, the workers’ compensation judge or arbitrator shall consider the: (a) Responsibility assumed by the attorney; (b) Care exercised in representing the applicant; (c) Time involved; and (d) Results obtained.”

(Cal. Code Regs., tit. 8, § 10844, as quoted in Gaines, supra, at p. 23; see Lab. Code, § 4906(d).)

Cross-references: § 1.1 (the weight of en banc decisions).

§ 26.6 Disputed Fees at Settlement Approval

• settled · en banc · quotations verified 8/24/26 · cite: *Blackletter* § 26.6, p. 74 (2026) ·

“When an issue as to the amount of the attorney’s fee arises, the attorney is still entitled to due process to establish the reasonableness of a fee, and any order regarding a disputed fee must be supported by a record. If the C&R is found adequate, but the adequacy of the attorney’s fee remains in question, the WCJ may approve the C&R with the requested attorney’s fee held in trust pending a hearing on the issue.”

(*Gaines, supra, at p. 23.*)

“If the documents presented are sufficient to establish that the requested attorney’s fee is reasonable, the WCJ may award it.”

(*Gaines, supra, at p. 23.*)

“If not, the WCJ should request additional documentation to establish the requested attorney’s fee in each case, as the WCJ did here.”

(*Gaines, supra, at p. 23.*)

“Thus, if the WCJ does not intend to award the requested fee, the appropriate procedure is to set the matter for a hearing.”

(*Gaines, supra, at p. 23.*)

Cross-references: § 1.1 (the weight of en banc decisions).

Table of Counsel & Persons Served

Generated from the service lists of the corpus decisions, exactly as served: counsel, administrators, and offices of record. The lists themselves do not state who represents whom. The individually served applicants are named in the captions and omitted here; entries are the offices, firms, and administrators of record. Names as printed by the Board.

(no service list printed — service by mail to all parties on the official address record)	<i>Coldiron (2002) · Coldiron (2002)</i>
Abramson Labor Group	<i>Gaines (2026)</i>
Acumen	<i>Gaines (2026)</i>
Adelberg Associates Medical Group	<i>Maxham (2017)</i>
Albert and MacKenzie	<i>Suon (2018)</i>
Albert and Mackenzie	<i>Gaines (2026)</i>
Asvar Law, PC	<i>DiFusco (2025)</i>
Bober, Peterson & Koby	<i>Gaines (2026)</i>
Bradford & Barthel	<i>Suon (2018) · Gaines (2026)</i>
Brundo Law	<i>Gaines (2026)</i>
Chernow, Pine & Williams	<i>Vazquez (2025)</i>
Colantoni, Collins, Marren, Phillips & Tulk	<i>Gaines (2026)</i>
Coleman Chavez & Associates	<i>Gaines (2026)</i>
Compwest	<i>Gaines (2026)</i>
Curtis Winter	<i>Maxham (2017)</i>
Dabbah, Haddad & Suleiman	<i>Gaines (2026)</i>
David Jane & Associates	<i>Gaines (2026)</i>

Table of Counsel (continued)

Dilles Law Group	<i>Vazquez</i> (2025)
Employer Defense	<i>Gaines</i> (2026)
Floyd Skeren, Manukian & Langevin	<i>Gaines</i> (2026)
Fraulob Brown Gowen & Snapp	<i>Maxham</i> (2017)
Garber & Av	<i>Perez</i> (2025)
Godfrey, Godfrey & Ortega	<i>Gaines</i> (2026)
Goldberg Segalla	<i>Perez</i> (2025)
Hanna, Brophy, Maclean, Mcaleer & Jensen	<i>Gaines</i> (2026)
Helmsman Management	<i>Gaines</i> (2026)
Laughlin, Falbo, Levy & Moresi	<i>Gaines</i> (2026)
Law Offices of Bryan Leiser	<i>Suon</i> (2018)
Law Offices of Heywood G. Friedman	<i>Gaines</i> (2026)
Law Offices of Lydia B. Newcomb	<i>Gaines</i> (2026)
Law Offices of Melanie Clayman	<i>Gaines</i> (2026)
Law Offices of Natalie Kaplan	<i>Gaines</i> (2026)
Law Offices of Robert Ozeran	<i>Gaines</i> (2026)
Liu Hutton	<i>Perez</i> (2025)
Mastagni Holstedt	<i>Maxham</i> (2017)
Michael Sullivan & Associates	<i>Perez</i> (2025)
Michael Sullivan & Associates LLP	<i>DiFusco</i> (2025)
Natasha M. Heale – State Compensation Insurance Fund	<i>Dennis</i> (2020)
Newhouse Creager	<i>Gaines</i> (2026)
Nicholas Webber	<i>Gaines</i> (2026)
Office of the Administrative Director – Legal Unit	<i>Dennis</i> (2020)

Table of Counsel (continued)

Paul T. Dolberg – Mastagni Holstedt, A.P.C.	<i>Dennis</i> (2020)
Pro Athlete Law Group	<i>Perez</i> (2025)
Scott Stratman	<i>Gaines</i> (2026)
State Compensation Insurance Fund	<i>Maxham</i> (2017)
State of California, Department of Corrections	<i>Maxham</i> (2017)
The Tolwin Group, A Legal Corporation	<i>Gaines</i> (2026)
Tobin Lucks	<i>Gaines</i> (2026)

Table of Judges & Tribunals

No reporter indexes the bench. Generated from the corpus: the commissioners who signed each en banc decision, the district offices the cases rose from, and the trial judges the decisions themselves name. Everything here is stated by the corpus.

THE APPEALS BOARD — SIGNING

Katherine A. Zalewski	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025) · Dennis (2020) · Suon (2018)</i>
Merle C. Rabine	<i>Coldiron (2002) · Coldiron (2002)</i>

COMMISSIONERS — SIGNING

José H. Razo	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025) · Dennis (2020) · Suon (2018)</i>
Katherine Williams Dodd	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025) · Dennis (2020) · Suon (2018)</i>
Craig L. Snellings — <i>signed as “Craig Snellings” in Dennis, Perez, and Vazquez</i>	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025)</i>
Joseph V. Capurro	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025)</i>
Paul F. Kelly — <i>signed as “Paul Kelly” in Gaines</i>	<i>Gaines (2026) · DiFusco (2025) · Perez (2025) · Vazquez (2025)</i>
Deidra E. Lowe	<i>Dennis (2020) · Maxham (2017) · Suon (2018)</i>
Marguerite Sweeney	<i>Dennis (2020) · Maxham (2017) · Suon (2018)</i>
Craig Snellings — <i>signed as “Craig Snellings” in Dennis, Perez, and Vazquez</i>	<i>Dennis (2020)</i>
Colleen S. Casey	<i>Coldiron (2002)</i>
William K. O’Brien	<i>Coldiron (2002) · Coldiron (2002)</i>

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James C. Cuneo	<i>Coldiron</i> (2002) · <i>Coldiron</i> (2002)
Janice Jamison Murray	<i>Coldiron</i> (2002) · <i>Coldiron</i> (2002)
Frank M. Brass	<i>Coldiron</i> (2002) · <i>Coldiron</i> (2002) · <i>Maxham</i> (2017)
Juan Pedro Gaffney R.	<i>Suon</i> (2018)
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Commissioner Sweeney — <i>noted in fn. 1 as no longer a member of the Appeals Board; on the panel that granted reconsideration</i>	<i>DiFusco</i> (2025)
DISTRICT OFFICES OF ORIGIN	
Van Nuys District Office	<i>Gaines</i> (2026) · <i>DiFusco</i> (2025)
Santa Ana District Office	<i>Perez</i> (2025)
Salinas District Office	<i>Vazquez</i> (2025)
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WCJ Karinne Aslanian — <i>disqualified from further proceedings in all twenty-four consolidated cases by the en banc order</i>	<i>Gaines</i> (2026)
Judge Brennen — <i>named in the Petition for Reconsideration as quoted by the en banc; Santa Ana</i>	<i>Perez</i> (2025)

Table of Holdings

The corpus's en banc holdings, verbatim — each binding on all Appeals Board panels and workers' compensation judges (§ 1.1). Generated from the corpus.

HOLDING No. 1 · GAINES (2026) · EN BANC · BINDING · § 19.1, p. 50 · [slip op. p. 2](#)

"A workers' compensation settlement is only enforceable after approval by the Workers' Compensation Appeals Board. In approving a settlement, a WCJ must consider whether the agreement is valid and must determine whether the settlement is adequate in order to protect the injured worker and the public interest."

HOLDING No. 2 · GAINES (2026) · EN BANC · BINDING · § 19.3, p. 53 · [slip op. p. 2](#)

"Where the terms of the settlement are inconsistent, do not comply with the Labor Code, and / or are inadequate, the WCJ may investigate by issuing an order suspending action, and if the parties do not provide sufficient information, the WCJ may hold a hearing to create an evidentiary record that establishes the adequacy of a settlement."

HOLDING No. 1 · DIFUSCO (2025) · EN BANC · BINDING · § 1.2, p. 4 · [slip op. p. 2](#)

"All en banc decisions are binding on panels of the Appeals Board and WCJs, and the binding en banc decisions in Coldiron I and Coldiron II require disclosure of any entities liable for payment and any insurance policies that impact liability for payment."

HOLDING No. 2 · DIFUSCO (2025) · EN BANC · BINDING · § 1.3, p. 6 · [slip op. p. 2](#)

"Only the Appeals Board is statutorily authorized to issue regulations for adjudication for workers' compensation proceedings, and WCAB Rules 10390, 10400 and 10401 require that parties, their representatives, and their insurance companies be fully identified."

Table of Holdings (continued)

HOLDING No. 2 · DENNIS (2020) · EN BANC · BINDING · § 15.2, p. 32 · [slip op. p. 2](#)

"(2) an employer must show that it made a bona fide offer of regular, modified, or alternative work in order to avoid liability for a supplemental job displacement benefit voucher."

HOLDING No. 1 · DENNIS (2020) · EN BANC · BINDING · § 15.3, p. 34 · [slip op. p. 2](#)

"(1) AD Rule 10133.54 is invalid because it exceeds the statutory authority granted to the Administrative Director under sections 4658.5, subdivision (c), and 4658.7, subdivision (h), and restricts the exclusive adjudicatory power of the WCAB to adjudicate compensation claims, including disputes over supplemental job displacement benefits;"

HOLDING · COLDIRON I (2002) · EN BANC · BINDING · § 16.2, p. 40 · [slip op. p. 2](#)

"[W]here an employer's liability for workers' compensation benefits is adjusted by a third-party administrator, the administrator must disclose to the Workers' Compensation Appeals Board, to the other parties in any proceeding in which it is a party, and to its own counsel the identity of its client, whether a self-insured employer or insurance carrier. If the client is an insurance carrier, the administrator must disclose whether the policy includes a "high self-insured retention," a large deductible, or any other provision that affects the identity of the entity actually liable for the payment of compensation. Failure of the administrator to disclose the identity of its client may subject it to sanctions pursuant to Labor Code section 5813."

HOLDING No. 3 · DIFUSCO (2025) · EN BANC · BINDING · § 16.2, p. 40 · [slip op. p. 2](#)

"WCAB Rule 10390 does not supersede the Coldiron decisions. Defendants must comply with WCAB Rule 10390 and the disclosure requirements in Coldiron I and II, regardless of whether there is a third-party administrator."

HOLDING · COLDIRON II (2002) · EN BANC · BINDING · § 16.2, p. 42 · [slip op. p. 5](#)

"We emphasize, however, that our decision not to impose sanctions in this particular case does not in any way abrogate, diminish, limit or abridge our essential holding that a third party administrator must promptly disclose the identity of its client and, if the client is an insurance carrier, the administrator must disclose whether the policy includes a "high self-insured retention," a large deductible, or any other provision that affects the identity of the entity actually liable for compensation. These holdings remain in full force and effect, and the third party administrators (or their counsel and/or representative) who do not comply with these holdings may be subject to sanctions."

Table of Holdings (continued)

PRELIMINARY CONCLUSION No. 1 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION DEFERRED · § 20.3, p. 62 · slip op. p. 10

"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."

PRELIMINARY CONCLUSION No. 2 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION DEFERRED · § 20.3, p. 62 · slip op. p. 10

"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."

PRELIMINARY CONCLUSION No. 3 · PEREZ (2025) · EN BANC · BINDING · FINAL DECISION DEFERRED · § 20.3, p. 62 · slip op. p. 10

"when a witness is unable to appear in person, as a matter of due process, a request to testify electronically should be readily permitted."

HOLDINGS Nos. 1–2 · MAXHAM (2017) · EN BANC · BINDING · § 9.5, p. 16 · slip op. p. 2

"[W]e hold that: 1. "Information," as that term is used in section 4062.3, constitutes (1) records prepared or maintained by the employee's treating physician or physicians, and/or (2) medical and nonmedical records relevant to determination of the medical issues. 2. A "communication," as that term is used in section 4062.3, can constitute "information" if it contains, references, or encloses (1) records prepared or maintained by the employee's treating physician or physicians, and/or (2) medical and nonmedical records relevant to determination of the medical issues."

HOLDINGS Nos. 1–5 · SUON (2018) · EN BANC · BINDING · § 9.5, p. 20 · slip op. p. 2

"1. Disputes over what information to provide to the QME are to be presented to the WCAB if the parties cannot informally resolve the dispute. 2. Although section 4062.3(b) does not give a specific timeline for the opposing party to object to the QME's consideration of medical records, the opposing party must object to the provision of medical records to the QME within a reasonable time in order to preserve the objection. 3. If the aggrieved party elects to terminate the evaluation and seek a new evaluation due to an ex parte communication, the aggrieved party must do so within a reasonable time following discovery of the prohibited communication. 4. The trier of fact has wide discretion to determine the appropriate remedy for a violation of section 4062.3(b). 5. Removal is the appropriate procedural avenue to challenge a decision regarding disputes over what information to provide to the QME and ex parte communication with the QME."

Table of Holdings (continued)

HOLDING No. 1 · VAZQUEZ (2025) · EN BANC · BINDING · PROSPECTIVE · § 9.6, p. 23 · [slip op. p. 2](#)

"Only the Appeals Board has jurisdiction to determine whether a replacement panel is valid or otherwise appropriate."

HOLDING No. 2 · VAZQUEZ (2025) · EN BANC · BINDING · PROSPECTIVE · § 9.6, p. 27 · [slip op. p. 2](#)

"In a represented case, where a QME does not timely establish availability to set an appointment pursuant to AD Rule 31.3, a WCJ or the Appeals Board has discretion to order a replacement QME for good cause. The WCJ or the Appeals Board may consider the following: a. The length of delay caused by the QME's unavailability. b. The amount of prejudice caused by the delay in availability versus the amount of prejudice caused by restarting the QME process. c. What efforts, if any, have been made to remedy the QME's availability. d. Case specific factual reasons that justify replacing or keeping the current QME, including whether a party may have waived its objection. e. The Appeals Board's constitutional mandate to "accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character." (Cal. Const., art. XIV, § 4.)"

Table of Cases

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Beverly Hills Multispecialty Group, Inc. v. WCAB (Pinkney) (1994) 26 Cal.App.4th 789	§ 20.2
Bland v. Workmen’s Comp. Appeals Bd. (1970) 3 Cal.3d 324	§ 16.3
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§ 31.5 §§ 1.5, 9.6

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§ 10400 §§ 1.3, 16.2

§ 10401 §§ 1.3, 16.2

§ 10515 §§ 16.3, 20.1

§ 10517 § 16.3

§ 10550 (repealed) § 16.2

§ 10561 § 14.1

§ 10563 § 16.9

§ 10617(b) § 16.3

§ 10803 § 20.1

CAL. CODE REGS., TIT. 8 — OTHER RULES CITED (UNLABELED IN THE CORPUS)

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§ 10305(k) § 1.1

§ 10325 §§ 1.1, 1.2

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§ 10955(a) §§ 21.8, 21.9

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Colophon

Corpus of this printing: nine decisions — every 2025–2026 en banc, and the Board’s en banc decisions in *Coldiron I & II* (2002), *Maxham* (2017), *Suon* (2018), and *Dennis* (2020). Sections populated: thirty-five. Holdings of first impression: thirteen, all en banc, all binding, and three preliminary en banc conclusions. Quotations: three hundred thirty-eight, and sixteen boxed holdings and preliminary conclusions, each machine-verified against its slip opinion, 2026-08-23. Finding aids: a table of counsel, a table of judges and tribunals, a table of holdings, a table of one hundred five cases, one hundred four statutes and regulations, and an index — all generated from the corpus. Words of the compiler in the body of this work: none, outside the labeled and signed commentary apparatus.

Every page of this edition was assembled from *Gaines v. ABM Aviation, Inc.*, *DiFusco v. Hands On Spa*, *Perez v. Chicago Dogs*, *Vazquez v. Renteria*, *Dennis v. State of California*, *Coldiron I*, *Coldiron II*, *Maxham*, and *Suon* alone, under the census rule: if it is not in the corpus, it is not in the book. The reserved chapters are not unfinished — they are honest. They will fill, decision by decision, in the courts’ own words, at the speed the corpus grows. This is what a law book looks like when the law is allowed to write it.

Compiled under the direction of **Sean Richard Weber · Nathan Howser, Esq.**, contributing author & editor

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