

1 **WORKERS' COMPENSATION APPEALS BOARD**

2 **STATE OF CALIFORNIA**

3  
4 **Case No. MISC. NO. 260**

5 **IN RE: COVID-19 STATE OF EMERGENCY**

6 **EN BANC**  
7

8 Upon a unanimous vote of its members,<sup>1</sup> the Appeals Board issues this decision as a whole as an  
9 en banc decision.<sup>2</sup> (Lab. Code, § 115.)

10 On March 4, 2020, the State of California's Governor, Gavin Newsom, declared a state of  
11 emergency in response to the spread of the novel coronavirus (now known as COVID-19).<sup>3</sup> As of the  
12 date of this decision, several counties in the State of California, within which district offices of the  
13 WCAB are located, have issued a shelter-in-place order in response to COVID-19.<sup>4</sup>

14 In light of this state of emergency and pursuant to its authority per WCAB Rule 10370, the  
15 Appeals Board is temporarily suspending specific WCAB Rules of Practice and Procedure contained in  
16 Title 8 of the California Code of Regulations. (Cal. Code Regs., tit. 8, § 10370.) This suspension is  
17 applicable to all district offices in the State and applies to the following Rules:<sup>5</sup>  
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20 <sup>1</sup> Commissioner Gaffney was unavailable and did not participate in this decision.

21 <sup>2</sup> En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and WCJs. (Cal. Code Regs.,  
22 tit. 8, former § 10341, now § 10325 (eff. Jan. 1, 2020); *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005)  
126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418,  
1424, fn. 6 [67 Cal.Comp.Cases 236].) This en banc decision is also adopted as a precedent decision pursuant to Government  
Code section 11425.60(b).

23 <sup>3</sup> Governor Newsom's proclamation may be accessed here: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>. (See Evid. Code, § 452(c).)

24 <sup>4</sup> The City and County of San Francisco, which is where the WCAB's Office of the Commissioners is currently located, is  
25 among the counties with a shelter-in-place order effective as of March 17, 2020. The City and County of San Francisco's  
26 Order of the Health Officer No. C19-07 may be accessed here: [https://www.sfdph.org/dph/alerts/files/HealthOrderC19-07-  
%20Shelter-in-Place.pdf](https://www.sfdph.org/dph/alerts/files/HealthOrderC19-07-%20Shelter-in-Place.pdf).

27 <sup>5</sup> The WCAB amended its Rules, effective January 1, 2020. Both the previous and current Rule numbers (as applicable) are  
identified herein.

1 1) Cal. Code Regs., tit. 8, former §§ 10562, 10563, 10563.1, now §§ 10755, 10756, 10888  
2 (eff. Jan. 1, 2020): Dismissal of an application or lien claim for failure to appear is suspended.

3 2) Cal. Code Regs., tit. 8, former §§ 10860, 10865, 10866, now §§ 10961(a), 10962(c),  
4 10990(f)(3)(E), 10995(c)(3) (eff. Jan. 1, 2020): Workers' compensation judges (WCJs) and  
5 arbitrators shall have an unlimited extension of time within which to issue reports in response  
6 to petitions for reconsideration or removal.

7 3) Cal. Code Regs., tit. 8, former § 10408, now § 10500(b)(6) (eff. Jan. 1, 2020): Suspension  
8 of the requirement in the Compromise and Release agreements (DWC-CA forms 10214(c)-  
9 (e)) for signatures from two witnesses. Signatures on the forms from all parties may be  
10 electronic.

11 4) Cal. Code Regs., tit. 8, former § 10500, now § 10628 (eff. Jan. 1, 2020): Suspension of the  
12 requirement for service by the WCAB by mail. Service by the WCAB may be made  
13 electronically with or without parties' consent.

14 On March 16, 2020, the Division of Workers' Compensation (DWC) issued Newline Release  
15 No. 2020-18 providing in pertinent part that the DWC's district offices are currently closed for filing  
16 from March 17 through April 3.<sup>6</sup> (See Code Civ. Proc., § 12(a); Cal. Code Regs., tit. 8, former §§ 10507,  
17 10508, now §§ 10600, 10605 (eff. Jan. 1, 2020); *Pa'u v. Department of Forestry, et al.* (2019)  
18 (ADJ9159725, ADJ7757931, ADJ9640668). In accordance with this, all filing deadlines are extended to  
19 the next day when the district offices reopen for filing.

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27 <sup>6</sup> The DWC Newline may be accessed here: <https://www.dir.ca.gov/DIRNews/2020/2020-18.html>. We also note that this  
closure may be extended and parties are encouraged to check the DWC and WCAB websites for updated information.

1 For the foregoing reasons,

2 **IT IS SO ORDERED.**

3 **WORKERS' COMPENSATION APPEALS BOARD (EN BANC)**

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5 /s/ Katherine A. Zalewski  
6 *KATHERINE A. ZALEWSKI, Chair*

7 /s/ Deidra E. Lowe  
8 *DEIDRA E. LOWE, Commissioner*

9 /s/ Marguerite Sweeney  
10 *MARGUERITE SWEENEY, Commissioner*

11 /s/ José H. Razo  
12 *JOSÉ H. RAZO, Commissioner*

13 /s/ Katherine Williams Dodd  
14 *KATHERINE WILLIAMS DODD, Commissioner*

15 /s/ Craig Snellings  
16 *CRAIG SNELLINGS, Commissioner*

17  
18 **DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

19 **03/18/2020**

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