

1 **WORKERS' COMPENSATION APPEALS BOARD**

2 **STATE OF CALIFORNIA**

3 Case No. LBO 259356

4 **FELIX LIU,**

5 *Applicant,*

6 vs.

7 **ALLIEDSIGNAL AEROSPACE CO.;**  
8 **TRAVELERS INSURANCE COMPANY,**

9 *Defendants.*

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

10  
11 Defendant, AlliedSignal Aerospace Company, by and through its insurer,  
12 Travelers Insurance Company, has filed a petition seeking the removal of this  
13 matter to the Appeals Board to review the April 13, 1995 order of the presiding  
14 workers' compensation judge (WCJ) transferring venue from Long Beach to Van  
15 Nuys. Defendant contends that the judge abused his discretion in transferring  
16 venue to Van Nuys, as his decision was based solely on applicant's request  
17 without a determination of good cause.

18 Defendant filed an application for adjudication of claim in Long Beach on  
19 December 15, 1994. The application indicated that the selection of this venue was  
20 based upon the applicant's residence. Applicant had served a claim form on  
21 defendant on January 9, 1992, alleging that he had sustained a cumulative  
22 industrial injury to his head, psyche, internal organs caused by continuous stress  
23 and wrongful termination, over the period of his employment through November  
24 29, 1991.

25 Applicant filed a second application for adjudication of claim for the same  
26 alleged injury, in Van Nuys on January 12, 1995. Attached to applicant's  
27 application is a venue authorization for Van Nuys, dated January 9, 1992.

1 A Mandatory Settlement Conference was scheduled March 17, 1995 in Long  
2 Beach. According to defendant's petition, at that conference applicant's counsel  
3 orally requested that venue be transferred to Van Nuys, and the parties argued  
4 the issue before the presiding judge. Applicant asserted that because he had  
5 initially made the choice of venue in Van Nuys, the matter should be transferred  
6 there. Defendant argued that as there was no connection between Van Nuys and  
7 this case, the matter should not be transferred. The parties were allowed to  
8 submit points and authorities.

9 The presiding judge issued his order transferring venue to Van Nuys on  
10 April 13, 1995. He reasoned that since venue in Los Angeles County is proper in  
11 any district office if the residence of the applicant and the place of injury are both  
12 located in that County, applicant's choice should prevail. The presiding judge  
13 further found that applicant's oral request for a change of venue met the  
14 requirement of Labor Code section 5501.6, as the filing of a *petition* for a change of  
15 venue is not mandatory but permissive. Finally, the fact that the Long Beach  
16 district office was geographically more convenient for all parties and witnesses  
17 did not outweigh the applicant's right to choose venue.

#### 18 Discussion

19 Where there is more than one district office in a county, the rules for the  
20 selection of venue allow for the filing of an application at any office in the county,  
21 if the applicant's residence and the location where the last injurious exposure  
22 occurred are both situated in that county. (Labor Code section 5501.5(b).)

23 Once venue has been selected, the applicant or the defendant may seek an  
24 order transferring venue by petitioning for a change of venue "and a change of  
25 venue shall be granted for good cause." (Labor Code section 5501.6(a).) Where the  
26 request is based upon the convenience of witnesses, the party requesting the  
27 change must specifically set forth the names and addresses and the substance of

1 the witness testimony.

2 In this matter, venue was first established in Long Beach when defendant  
3 filed an application. The choice of venue in Long Beach was permissible under  
4 Labor Code section 5501.5(b). Once venue was established, the proper procedure to  
5 change venue is that which is set forth in Labor Code section 5501.6; either party  
6 may petition the Appeals Board for a change of venue. Such a petition will be  
7 granted if the party seeking the change sets forth good cause. Here, no such  
8 petition setting forth good cause was filed. For that reason, we shall grant  
9 removal and order that venue be returned to Long Beach, until such time as a  
10 petition for a change of venue setting forth good cause is filed.

11 For the foregoing reasons,

12 IT IS ORDERED that the April 27, 1995 Petition for Removal be, and hereby  
13 is, GRANTED.

14 IT IS FURTHER ORDERED, as our Decision After Removal, that the April  
15 13, 1995 Order Transferring File is RESCINDED, and the matter shall be  
16 RETURNED to the Long Beach Worker's Compensation Appeals Board for  
17 further proceedings.

18 **WORKERS' COMPENSATION APPEALS BOARD**

19 *Arlene N. Heath*

20  
21 I CONCUR,

22 *J. S. Wiegand*

23 PARTICIPATING BUT NOT SIGNING

24 J. S. Wiegand

25 DATED AND FILED IN SAN FRANCISCO, CALIFORNIA

26 JUL 26 1995 *Teresa Hernandez*

27 SERVICE BY MAIL ON SAID DATE TO ALL PARTIES LISTED ON THE  
OFFICIAL ADDRESS RECORD EXCEPT LIEN CLAIMANTS.



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LIU, FELIX