

211

WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

Case No. PAS 22317
PAS 18022

RODRIGO CANO,

Applicant,

vs.

**CITY OF EL MONTE; COLEN & LEE;
STATE COMPENSATION INS. FUND,**

Defendant(s).

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

Defendant, City of El Monte, has petitioned the Board, requesting that we remove this matter to ourselves, to order that applicant's two claims of industrial injury be consolidated for hearing at one trial. Defendant alleges that both cases involve the same worker, the same employer, the same applicant's attorney, the same treating doctor, and injury to "companion parts of the body." Defendant contends that the WCJ's refusal to consolidate the cases is prejudicial.

Labor Code section 5310 provides that the Appeals Board may appoint one or more workers' compensation judges in any proceeding when deemed necessary or advisable, and may refer, remove to itself, or transfer to a workers' compensation judge the proceedings on any claim. Labor Code section 5303 and Board Rule 10590 provide that cases may be consolidated for the taking of evidence.

///

///

1 We have reviewed the record of the above entitled matters,
2 and considered defendants' pleadings and assertions, as well as
3 the answer filed by applicant and the WCJ's report on the
4 petition. Although the claims for which consolidation is
5 requested are not identical, there are many common issues of fact
6 and law between the two cases. The Board believes that common
7 issues of fact and law justify the request and that consolidation
8 will promote judicial expedience and efficiency in the resolution
9 of the cases. Accordingly, the Board will grant the request for
10 removal, remove this matter to ourselves, and order that the cases
11 be consolidated as requested.

12 For the foregoing reasons,

13 IT IS ORDERED that defendant's Petition for Removal, filed
14 January 6, 1994, be, and it hereby is, **GRANTED**.

15 IT IS FURTHER ORDERED that cases PAS 022317 and PAS 018022
16 are removed to the Board.

17 IT IS FURTHER ORDERED, as the Board's decision after
18 removal, that cases PAS 022317 and PAS 018022 are **CONSOLIDATED**
19 for hearing.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

IT IS FURTHER ORDERED that the matter is returned to the trial level to be set for hearing, and for further proceedings and decision at the trial level thereafter.

WORKERS' COMPENSATION APPEALS BOARD

J. J. [Signature]

I CONCUR,

Arlene N. Heath

NOT PARTICIPATING

Richard W. Younkin DEPUTY



DATED AND FILED IN SAN FRANCISCO, CALIFORNIA

DFC 1 5 1994

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

gs *Concluta D. Lopez*