

Addendum C to Court Administrator Rules 45 Day Comment Chart

Court Administrator's jurisdiction over trial level procedures

In 2002, the legislature amended Labor Code section 138.1 and created the position of the court administrator. [Assembly Bill 749 (Chapter 6, Stats. of 2002, effective January 1, 2003).] The legislature defined the position of the court administrator as "the administrator of the workers' compensation adjudicatory process at the trial level." (Lab. Code § 110 (f).) The legislature expressly intended the court administrator to "further the interests of uniformity and expedition of proceedings before workers' compensation administrative law judges, assure that all workers' compensation administrative law judges are qualified and adhere to deadlines mandated by law or regulations, and manage district office procedural matters at the trial level." (Lab. Code § 127.5.)¹

In Assembly Bill 749, the legislature amended Labor Code sections 5307, 5500.3 and 5502 to give the court administrator authority over trial level proceedings, which had previously been divided between the administrative director and the appeals board.

Labor Code section 5500.3 was amended to transfer the authority to create uniform trial level procedures and forms to the court administrator. Labor Code section 5500.3(a) was amended to read in full:

The court administrator 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 administration law judge shall require forms or procedures other than as established by the court administrator. The court administrator shall take reasonable steps to ensure enforcement of this section. A workers' compensation administrative law judge who violates this section may be subject to disciplinary proceedings.

The appeals board under Labor Code section 5500.3(b), may "establish uniform court procedures and uniform forms for all other proceedings 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." (Emphasis supplied.)

To carry out the authority granted the court administrator in section 5500.3(a), the legislature amended Labor Code section 5307 and transferred the authority to promulgate trial level rules from the appeals board to the court administrator. The legislature's grant of rulemaking authority in section 5307(a) to the appeals board now reads in relevant part:

The appeals board may by an order signed by four members:

- (a) Adopt reasonable and proper rules of practice and procedure.
- (b) Regulate and provide the manner in which, and by whom, minors and incompetent persons are to appear and be represented before it.
- (c) Regulate and prescribe the kind and character of notices, where not

¹ Like the administrative director and the appeals board, the court administrator has the "power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon it under this code." (Lab. Code § 133.)

specifically prescribed by this division, and the service thereof.

(d) Regulate and prescribe the nature and extent of the proofs and evidence.

The legislature's creation of Labor Code section 5307 (c) provides the scope of the court administrator's rulemaking authority and states in full:

The court administrator shall adopt reasonable, proper, and uniform rules for district office procedure regarding trial level proceedings of the workers' compensation appeals board. These rules shall include, but not be limited to, all of the following:

(1) Rules regarding conferences, hearings, continuances, and other matters deemed reasonable and necessary to expeditiously resolve disputes.

(2) The kind and character of forms to be used at all trial level proceedings. All rules and regulations adopted by the court administrator pursuant to this subdivision shall be subject to the requirements of the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Labor Code section 5502 was amended to give the court administrator the authority to promulgate the declaration of readiness form. (Lab. Code § 5502(a).) The legislature specifically required the court administrator to "establish a priority calendar for issues requiring an expedited hearing and decision" and the establishment of a "priority conference calendar for cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment." (Lab. Code §§ 5502(b), (c).) The appeals board retained the authority to "adopt any regulations needed to implement this subdivision" concerning mandatory settlement conferences conducted under Labor Code section 5502(e)(2).