

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5625**

Open Session

The Appeals Board convened at 1:00 p.m., December 20, 2017, in Sacramento with Chair Marty Block presiding.

1. Roll Call: <u>Members</u>	<u>Present</u>	<u>Absent</u>
Marty Block, Chair	x	
Michael Allen, Vice Chair	x	
Ellen Corbett	x	
Robert Dresser	x	

2. Approval of the Minutes:

The November 15, 2017 Meeting Minutes were approved unanimously.

3. Chair's Report:

Chair Block reported he attended the California Unemployment Insurance Council meeting last week in Los Angeles with Executive Director Gonzales and a few of CUIAB's presiding judges for that area. It was a really good meeting with a good group of people who represent employers' interests. They did express concern that CUIAB slants for the employees in its decisions. Chair Block has also met with Unions who have told him that CUIAB slants towards the employers, so as long as both sides think CUIAB slants in the other direction, it may be more of a PR problem than a fairness problem. Chair Block noted CUIAB's record of having very few cases that go to superior court and many fewer that actually get overturned. So whatever we are doing we are probably being fair enough. Chair Block thinks the agency is doing a good job and by in large they appreciated those comments. Chief Gonzales did a very good job of speaking to the employers and giving them some suggestions about timeliness and meeting deadlines. He has been told since then that they very much appreciated his and Chief Gonzales' comments.

Chair Block commented on the staff luncheon held yesterday and thanked Lori Kurosaka for coordinating the event. Lastly, he wished everyone a happy holidays.

4. Board Member Reports:

Vice Chair Allen expressed his desire to meet prior to the January Board meeting with Judge Bach to discuss the Precedent Committee, status issues and how he can be of any assistance in terms of issues that are arising. He asked Judge Bach to let him know in advance if she had any ideas or suggestions for Member Allen regarding the contents of the discussion.

Vice Chair Allen expressed his appreciation for the staff, management, the attorneys and the support staff for the work they do. He commented for the holiday season the most important thing is to let them know the Board is wishing everyone safety, health and prosperity for the coming year. Their work is noticed and it is appreciated. It is never taken for granted.

Member Corbett also wished everyone happy holidays and thanked them for getting cases to the Board to process timely. She regrets she had to miss the luncheon yesterday. She looks forward to next year being another great and successful year.

Member Dresser commented that he was very impressed that Vice Chair Allen was able to do all his cases despite the fires in Santa Rosa. He thanked Chair Allen and wished everyone happy holidays.

5. Public Comment:

No public comment.

6. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Gonzales reported that one of the things the Board will note from the handouts is that this is the first month this year the Field Offices did not hit the 60% 30-day case closure mark; it was 58.7%. It appears to be the same thing that happened last year, according to Judge Harrison. November to January is the slowest time where the monthly numbers may go a little lower than the Federal requirement, but since it is a percentage averaged over the entire year we are in a comfortable range and there is no indication CUIAB is in any danger of not making the required numbers in March. The 45-day was 80.4% so the Field did hit that standard. Chief ALJ/Executive Director Gonzales is comfortable that CUIAB is on track with the case aging and the time lapse numbers.

Chief ALJ/Executive Director Gonzales announced that Zaida Hackett, Presiding Administrative Law Judge for the Los Angeles Office of Appeals, would be retiring. Her last day will be December 29, 2017. She has been with the agency for over 22 years and had worked as the presiding judge of Oxnard, Pasadena, and Los Angeles. She commented that Judge Hackett will be missed. Judge Hackett has been working with Judge Felicita Ngo who has been the acting presiding judge for much of the period of time when Judge Hackett is out.

Chief ALJ/Executive Director Gonzales announced that Judge John Martin will transfer to the Los Angeles Office of Appeals from the Inglewood Office of Appeals. Judge Martin will be the presiding judge of the Los Angeles Office of Appeals and they will be posting Inglewood Office of Appeals opening within the next couple of weeks to hire into the Inglewood position Judge Martin vacated.

Chief ALJ/Executive Director Gonzales announced that Orange County ALJ John Stewart has retired. ALJ Stewart had been with CUIAB since 1980. She believes he was the longest serving ALJ in the state.

Chief ALJ/Executive Director Gonzales reported that the fires in Santa Barbara did impact CUIAB's Oxnard facility and Pasadena facility for a period of time. She commended Lori Kurosaki for following up on an hourly basis with the acting presiding judge in that office to preserve as many scheduled hearings as possible. She did a very good job and they did not lose very many hearings as a result of the fires. As with the Santa Rosa fires we did get requests for administrative time off for employees in that location who were unable to come to work due to the fires. She commented the presiding judges and the ALJs as well as the office staff really stepped up and handled the situation very well.

Chief ALJ/Executive Director Gonzales reported that the training team was at headquarters working with members of the IT department to learn how to train the ALJs on Winscribe. The ALJs in Sacramento were given a case and used the Winscribe equipment just this week and it was fairly successful. Lori Kurosaka and Janet Maglente also worked on that project very closely with IT and the training team to make sure there is a schedule that could be rolled out after the holidays for the other offices. Any problems that developed in Sacramento could be addressed before it moved on to the next office, San Diego. The ALJs felt it was a smooth transition from the Dictaphone equipment to Winscribe.

Vice Chair Allen asked if there was a standard protocol or tradition that when people leave the agency after giving years of service, do we give a certificate of recognition, something to show our appreciation for the years of service.

Chief ALJ/Executive Director Gonzales responded that there is a certificate, framed and signed by the Chair that is given to the employees.

Chair Block asked if there is some standard protocol for filling vacant PALJ positions, such as just occurred in the Los Angeles Office of Appeals.

Chief ALJ/Executive Director Gonzales replied that transfers of existing PALJs are given preference over promotions, unless the requesting PALJ is underachieving.

Vice Chair Allen asked how the Department of Labor calculates timeliness, does DOL look at the whole 12 months.

Chief ALJ/Executive Director Gonzales responded that for time lapse DOL looks at the average performance over a period of 12 months. Therefore if one month is low and one month is substantially higher it will all balance out. However, case aging is different in that timeliness is calculated on just one date, March 31. On that day all the age of all pending cases is measured to come up with an average case age.

Vice Chair Allen asked if November was a bad month because of the number of holidays in that month.

Chief ALJ/Executive Director Gonzales responded that it is because of both holidays and vacations, so November and December are traditionally the months were we are more likely to fall behind.

7. Chief ALJ of Appellate Operations Report:

Acting Presiding Judge Rebecca Bach reported that AO is required to close 50% of the cases within 45 days and 80% within 75 days, but AO closed 75.3% and 96% respectively in November. The case aging requirement is less than 40 days and AO achieved 30.1 days, well down from last month when it was at 36.8. AO opened 1,118 cases and closed 1,050 cases, leaving a balance of 1,046 of which 944 are UI cases.

Acting Presiding Judge Bach reported that the Precedent Decision Committee had a meeting which was very productive. The list of ideas was revamped and has gone out to the ALJs in Appellate Operations and to the PALJs in the Field. She has already received contacts from two different people about possible cases. She will be looking into those as possible ideas. There is a second meeting set for

January 10, 2018. Hopefully, they will meet with Member Allen after that.

Vice Chair Allen commented that she should feel free to distribute the information. The Board cannot talk about it serially but it can be distributed to them so they know what the issues are that the committee is looking at.

Acting Presiding Judge Bach stated she will email the updated list to each of the Board Members individually.

Member Corbett commented that she will be talking to Member Allen about this, but she did think it would probably be appropriate for the Precedent Committee to talk a look at CUIAB's sexual harassment precedent that was done about a year ago. She is a little bit concerned about the interpretation recently. There seems to be some sort of interpretation that you have to look at how bad the sexual harassment is. She thinks in light of the national discussion it is probably appropriate to just take a look at it and see if it is something that should be amended or updated.

Acting PJ Bach responded that sexual harassment policy is on the list, to provide additional examples and guidance.

Chair Block agreed that CUIAB's sexual-harassment policy needs clarity. Generally, all sexual-harassment should be misconduct. However, not all boorish behavior rises to the level of sexual harassment. Chair Block seeks more clarity in determining that threshold.

Member Corbett commented that this is something that is not a new discussion. She remembers when she was a new member being absolutely astonished that CUIAB did not have a precedent that defined sexual harassment as misconduct. She stated they worked very hard to find a case to move that forward and again, in light of the discussion that is happening nationwide, it is pretty clear to her that they do need to take another look at that precedent and see how it is being interpreted, so we do not end up with subjective interpretations on that very important issue.

Member Dresser asked PJ Bach to thank the board authors from time to time, as he suggests revamping or an edit or whatever and they have always been very responsive and he appreciates it. He knows it takes extra time but it is a good product.

8. Chief Information Officer, Nick Dressler Report:

CIO Dressler reported that as of today they have Sacramento, Roseville and Stockton offices using Winscribe with no issues whatsoever. CIO Dressler commented that they continue to monitor jobs as they come in just to make sure there are not any issues.

CIO Dressler commented that the State of California has a California network that all the data traffic runs on. O-Tech has been pressuring him to get on that network. It is advised that CUIAB be on it and he resisted. He is glad that he has resisted because there is a statewide outage and CUIAB is unaffected by it because we are on our own network.

Member Corbett thanked CIO Dressler and Aaron Gravvat for their quick response in fixing her equipment to get her back up a running.

9. Chief Administrative Services, Robert Silva Report:

No report.

Closed Session:

No closed session.

Adjournment