

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5585**

1. Opening of Meeting:

The Appeals Board convened at 10:30 a.m., January 13, 2015, in Sacramento with Chair Robert Dresser presiding.

| 2. Roll Call: <u>Members</u> | <u>Present</u> | <u>Absent</u> |
|-------------------------------------|-----------------------|----------------------|
| Robert Dresser, Chair | x | |
| Michael Allen, Vice Chair | x | |
| Roy Ashburn | x | |

3. Approval of the Minutes:

The December 12, 2014 minutes were approved unanimously.

4. Chair's Report:

Chair Dresser thanked Lori Kurosaka, Janet Maglinte and Heidi Corcoran for organizing a reception for his new wife, Choco Leandro Dresser. They had a really good time. He thanked Chief Elena Gonzales for her gracious comments.

Chair Dresser reported that one of the significant things last month were the revisions and updates to many of the standard paragraphs; and they were sent to the printer in late December as promised. He stated that a number of recent court decisions and precedent decisions were incorporated in the text. He's comfortable that the standard paragraphs will be even a better guide to the judges, to EDD and to all of them as has been the case in the past. He gave a special thank you to now-retired Board Member John Adkisson who worked very hard to help bring the standard paragraphs up to date. He thanked Assistant Chief Hugh Harrison and his committee and to the three Chiefs who had the final say on what the standard paragraphs came to be; Chief Elena Gonzales, Chief Elise Rose, Chief Counsel Michael Levy, as well as to the board members who participated.

Chair Dresser reported that they are meeting with Labor Agency and EDD to discuss the budget issues for this year 2015/16. He stated that there will be more

to report in the next few weeks. Chair Dresser noted that the Department of Labor's report of January 12, 2015 complimented California for meeting timeliness standards in September both in the field and in AO. CUIAB got kudos for September and we will see how we are doing for the rest of the time.

5. Board Member Reports:

Vice Chair Allen wished everyone a Happy New Year and best wishes for the coming year. He hoped everyone over the holidays had some time to be with family, rest, recuperate, make resolutions, and break resolutions, whatever worked for them. He did comment that it's really his hope that given what happened last year with all the complexities of having to do a reduction in force because of the coming out of the rescission and having to reduce positions that he still would like to reiterate his concern about right-sizing and he knows what a struggle that is to try to do that. He wanted to let all the staff know that he is just very concerned that they are able to have the resources to do this job properly. He commented that he'll never underestimate how difficult a job it is for everyone in this agency for what they do and he thanked them for what they do. Lastly, he congratulated the Chair on his wedding.

Member Ashburn congratulated the Chair on his wedding and wished him incredible happiness. He commented that the Chair is an extraordinary joyful person to be around even when they disagree which has been from time to time. He hopes on a personal level that the Chair finds great joy and happiness. He thanked those who organized the reception and commented that it was nice and a good time to visit with those on the staff. He stated that it reminds what really good people there are at CUIAB, not just professionally qualified people but extraordinarily nice people.

Member Ashburn wanted to publicly thank John Adkisson for his service on the board. He commented that sometimes John's technique was not a technique he would have followed but the idea of raising questions about why we do what we do, the changes to the underlying laws, the applicability of the standard paragraphs and precedent decisions, challenging conventional wisdom is very useful and very important. He commented that John Adkisson did raise a lot of issues, especially on the issue of changes to the underlying law that's occurred in the 60's, 70's, 80's, and 90's and 2000's in some of our paragraphs that hadn't been looked at for a long time. Member Ashburn commented that the work that will flow from that will be very beneficial in the future and he really appreciated John's service on the board.

Chair Dresser commented that he hopes the minutes will reflect the tribute to John

so that we can send him a copy of these minutes.

6. Public Comment:

No public comment.

7. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Gonzales reported that unfortunately while everybody was celebrating the holidays the case number reflected the fact that there were a number of holidays in December, and people are encouraged to take the time off so that they can come back refreshed. Not surprisingly, they did not meet the numbers in December; for the 30-day time lapse they were at 57% rather than the DOL standard which is 60%; 45-days they were right at 80% and case aging was 31.2 days rather than the 30 days. However, in the last week the workload report ending January 9 reflect the pace has picked up and the case aging is at 35. It's one of those temporary dips in timeliness which does happen when you put in holidays and the end of the year. She is not disturbed by the numbers but it is the first time in a long time that FO actually has not made all three of the standards. For the entire year of 2014, there was a reduction in verified cases in all categories of 18%. Consistent with what they anticipated the caseload continues to decrease.

Chief ALJ/Executive Director Gonzales reported that she has been meeting with some of the field offices on their specific issues. She last week met with PJ Yolanda Gammill in Oakland and PJ Ron Kammann in San Francisco to discuss issues going on with their offices and she is trying to continue the outreach by going to field offices. She commented that when you meet in social settings or when you meet in different situations you are able to hash out some of the issues you might have by email or what have you that are not easily accomplished. That's her goal moving forward is to try to make some more outreach to the presiding judges who really are responsible for running each of their offices and are the ones account for the numbers that we do get and so on.

Chair Dresser noted that standards are evaluated on March 31. When the Department of Labor does its evaluation they look at the case aging for that date but the time lapse they evaluate based on a 12-month average.

Chief ALJ/Executive Director Gonzales agreed. Time lapse is an average although they try to make every month if they don't make it one month it will all come out in the wash; but case aging is a one-day snapshot on March 31st.

Member Ashburn commented that Chair Dresser and he have a commitment that CUIAB will keep of its timeliness requirements set by Department of Labor. He stated that that's a commitment that he and the Chair made together to the Senate Rules Committee at the time of their confirmation and so whatever measures are necessary in order to keep that commitment he is very serious about, understanding that things happen during the holiday season but if we are working on averages let's make sure that everybody is aware that if they find deficiencies that everyone is aware that we need to make that up. That would be his concern. He stated that sometimes just knowledge of where we stand in a particular period of time.

Chief ALJ/Executive Director Gonzales responded that they do have regular presiding judge phone calls where they convey and update people regularly on where we are with the numbers.

8. Chief ALJ of Appellate Operations, Elise Rose Report:

Chief ALJ of Appellate Operations Rose reported that AO is struggling a bit. AO did have its registrations this past month below the average for the year which is probably attributable to the holidays. She reported that the dispositions were about equal to the average and a little bit high the last month, so they are still getting out the cases. The open balance of cases is down and that's reflective in the overall decline in the caseload. Over 2013 AO's caseload has declined about 30% as reflected in the Program Trends and other numbers reflect about 33%. AO has lost about a third of its workload but has lost half of its staff that is why she thinks they are struggling to make their numbers. They did however eak out case aging in December at 38.8 days which was attributable to a lot of hard work. The past couple weeks in January they are not making it so they are watching it very carefully and doing the best they can but it's a numbers game at this point. She stated that recently they have had some reports of the cases not even being assigned until after the statutory date has past, nothing to do with the Department of Labor that is California law that says the case has to be decided within 60 days from the date of submission and the date of submission can change depending on the case progression but basically from the date it is ready to go for decision it has 60 days to get out the door. They are watching all of these numbers and doing the best that they can. She has increased the caseload of all of the judges and they are looking at ways to be more efficient in the way they are assigning cases and such. They will continue to do the best they can with what they have and make every effort. She knows there was a commitment made and they want to help them keep it. She commented that they are exploring and discussing with Executive the possibility of bringing in a retired annuitant between now and March possibly to

help them a little bit.

Chief ALJ of Appellate Operations Rose reported that the appeal rate did go up last month so now they are above the average, last month they were below. The appeal rate from FO to AO was 7.7% and the average 6 point something percent, last month it was 5%. Of course they don't like seeing the appeal rate go up given the rest of the numbers but they are working with it.

Chief ALJ of Appellate Operations Rose reported that Joel Contreras took an emergency retirement in early December. He seems to be doing better, it was for medical reasons. That is a big loss to AO on a number of different levels. She is taking over his functions as best she can but they are big shoes to fill. He had 30 years of experience here at CUIAB. One of his functions was running the Precedent Decision Committee and they are meeting today actually. They have a number of issues that were raised by the board in the last several months that they are bringing to the committee for discussion; things that were discovered in the review of standard paragraphs by former Member Adkisson, several of them and some of them just referred as cases came to the attention of board members, things like negation, attendance, attendance points and those sorts of things, financial incentives, and all of those issues that have been bubbling up and have been the subject of a lot of discussion. So the Precedent Committee will be looking at some of those in the next couple of meetings and making a plan to look for cases that might be good vehicles for precedent decisions.

Vice Chair Allen commented that he saw a lot of the language going back and forth when they were working on the standard paragraphs but he never saw the final finished product that went to the printers. He requested an electronic version. Secondly, and he touched upon it in his opening report but mainly because he has had a lot of experience with public agencies who have gone through downsizing and he knows that management always really struggles with trying to figure out all the repercussions of it and all the implications and he wanted to reiterate that he thinks, and he believes the other board members feel the same, they have expectations but they also want to help because it is all of their problems together, to be worked on together. It's just not one person in the organization. He knows it's going to be an assessment and he certainly doesn't get alarmed about one month, especially December, but looking at the data and also they are going to hearing on a report on the budget and some of it has to do with their negotiations with the Governor's Office and with EDD; it's a complex issue but he just wanted to go on record as saying he is supportive of it because he knows how difficult it is when you go through that process to get it where things stabilize because it takes a lot to really do an accurate assessment as to how you deal with it especially if you start

missing numbers. He commented that it is a phenomenon that he is very familiar with because of his past work dealing with public agencies.

Chair Dresser thanked Vice Chair Allen for his comments and stated that they will be counting on him to help them during the transition.

9. Project Director, Lori Kurosaka Report:

Chief ALJ/Executive Director Gonzales stated that Assistant Chief Sal Canella will report today because he has been working on an IT project that he will go into detail but she wanted to mention that as a result Faye Saunders, Hugh Harrison and that team we now merge our decisions with our coversheet which is a substantial time saver in a system that has been wrong 20 or 30 years and it has finally been fixed. Sal Canella will report on the details but Faye and her team has done a great job.

Assistant Chief Sal Canella reported that they had a very successful launch of eCATS-II on Monday. It becomes a more user friendly operation. It streamlines some of the functions that the field had to do. They received a lot positive comments from the field about the combining of certain functions into one function; it makes them process a lot quicker. He also mentioned that Faye Saunders and her IT staff, Hugh Harrison and all the folks that worked on this program, and wanted to point out that this is an in-house program; developed by our people, managed by our people, it's been improved by our folks. So it just goes to show that this agency depends extremely a lot on IT to keep it in the 21st century. In the past it has been mentioned or suggested that IT worked in a vacuum. They did things on their own without communicating with the field, IT, AO or Tax but this was a collaborative effort, eCATS-II. The field contributed tremendously to the testing of it, they made comments, they pointed our areas that they could improve on, and so while it was done by IT, he just mentions that AO staff and field staff also contributed in putting this program together and made it as successful as it is.

Assistant Chief Sal Canella reported that the next project that they are working on is the automated calendaring. Faye and her group are testing it now and depending on what the results of the testing are they may go out next month so that the field will then be calendaring automatically with the automated system that would give the calendar clerks and opportunity to do other things in the offices recognizing that we have not been able to backfill everybody that they can free from a task that takes all day, give an hour or so doing it, it contributes to the workflow of the field offices. So they hope to have that going by next month to see if it is going to be successful.

Assistant Chief Sal Canella reported that they have also been contacted by the Chief Counsel's Office to develop a program or to buy a program that would allow for the calendaring of their cases, to keep track of CUIAB's litigation. So that is something they will be getting some information on; working with Chief Counsel to find out what their needs are and see if they can develop something in-house or if it's something they need to go buy off the shelf to provide for that service.

Lastly, Assistant Chief Sal Canella reported that all in all he thinks the IT Department is functioning well. They are able to keep pace with what needs to be done. Just like everybody else, they have needs but that's not prevented them from continuing the professional service that they have provided all these years.

Chair Dresser complimented Assistant Chief Canella, Faye Saunders, Hugh Harrison and others involved for the successful launch of eCATS-II. He commented that that is really excellent and he is looking forward to the automated calendaring. He understands, talking to some people, that that will, as he said, free up some staff and just make it a smoother operation.

Assistant Chief Sal Canella commented that in addition to eCATS-II there is also going to be an eCATS-III. So they are not just saying this is the end of it. As they progress and identify more needs, as they are able to streamline the system to make CUIAB more efficient, more proficient and do it electronically, they will move on to the next phase. There are other projects that they would like to complete that would allow us to become more proficient and to be able to move things a lot more quickly.

10. Chief Administrative Services, Robert Silva Report:

Chief Silva commented that will be no monthly overtime and lump sum report because the data was not available in time for this meeting. He stated that he will have an update for the February board meeting.

Chief Silva reported that there is a meeting, not specifically scheduled but supposed to take place either this week or next week with Labor Secretary David Lanier in which all departments under Labor's control provide budget updates for the current 2014/15 fiscal year. The meeting is a follow up to data that all departments already submitted in early December to Labor Agency. That data included CUIAB expenditures through September with preliminary numbers for both October and November of 2014. In that data, with regard to salary and wages, CUIAB is well on pace to come in on our \$41.4 million budget for the current fiscal

year. However, with operating expenses budget there was a minor hiccup. Over the last several years CUIAB hasn't been charged anything for prorata. Prorata is the means for the General Fund to recover statewide general administrative cost for special state funds. It is basically like central agency functions, for instance, SEO cutting your paycheck every month. A few months ago, EDD came to the realization that they have been covering this for CUIAB over the last several years and they determined that the charges would be assigned to CUIAB beginning in the current fiscal year. That pro rata charge is roughly \$.5 million per year. It's too late in the budget cycle for the current fiscal year for the appropriations to be moved from EDD to CUIAB to cover that so EDD Fiscal and Labor Agency are aware of this and fully expect CUIAB to overspend its OE&E budget by that specific \$.5 million for the current fiscal year and EDD is changing the appropriations for next fiscal year and at the end of this fiscal year they will do a ledger adjustment to make sure that we don't historically overspend the budget. So that piece was also included in what was already submitted to Labor Agency but it will be reiterated again when they meet either this or next week with Secretary Lanier. Other than that specific line item, CUIAB, like with our salary and wages budget, is well on pace to meet the OE&E budget of \$16.6 million for the current year as well. So, with painstaking effort, CUIAB is doing well fiscally.

Chief Silva reported the change with regards to office supplies ordering in Field Operations. In order to meet the personnel budget goal this year, CUIAB is continuing to not backfill behind attritions that take place and at the field level this has resulted in a lot less support staff to handle the caseload. To assist in addressing this, Admin Services has agreed to begin ordering office supplies for the 12 field offices. There will still be some front and back end work for the 12 supply clerks in those field offices to do but the great majority of the time previously dedicated to ordering supplies in the field is now freed up for those employees to focus more on actual casework. He has been working with Renee Erwin and Martha Silva in Field Operations on this and they are going to begin on February 1.

Chair Dresser asked about the phone system needing modernization.

Assistant Chief Canella responded that it does and that the report that he mentioned to the Chair last week will be ready today. The report will identify the PBX systems that are currently in each office, the life for those systems and the cost to replace them. He doesn't have the figures in front of him but it is a report that has been completed and will be available to the board members. Assistant Chief Canella commented that San Jose went down and Pasadena went down. It took a week to get the parts to repair it. Fortunately, the reception phones worked. Their voicemail did not work. The public was still able to make contact with them

but they just didn't have full function of the system. It didn't affect the casework.

Vice Chair Allen commented that he doesn't mean to flog this issue but he brought it up at the last three or four meetings, it is still his opinion that the management team here is not well served by EDD for human resources. He stated that he knows that it is the sort of thing, in his mind, we have credit due from EDD because essentially, his feeling is, that the management team is trying to do so many things and do them capably that that loss of a dedicated human resource function for this department has really hurt the department and he is going to keep on bringing this up because he feels strongly that it does a disservice to the management team. He remarked that they are doing a great job but it was the very first that that he noticed the first month that he was here and maybe it had to do with his own work background and his level of expectation for an agency to have the dedicated resource. He commented that it requires a lot of CUIAB's very good managers and the board counsel doing extra duty to try to cover those gaps. He stated that this is just his opinion and his observation but he feels strongly about it and he will keep on bringing it up.

Chair Dresser asked if there was a meeting scheduled with EDD set up this month or February because they are supposed to have regular meetings with EDD to raise these kinds of issues; to talk about administrative issues, ordering or phones or whatever.

Chief Silva responded that there was no pending meeting for February for administrative concerns specifically human resource issues. They have written Service Level Agreement draft changes which are in the review phase here at CUIAB and those draft changes have not been submitted to EDD as of yet.

Chair Dresser stated maybe that is something that can be done this month to get those finalized in February. He commented that they have met a little bit in the past with EDD to raise the Vice Chair Allen's concerns and they will continue doing it. The Chair agreed with Vice Chair Allen that improvement is required.

Vice Chair Allen concluded with there is a linkage with this comments he was making and the whole idea of management being able to stabilize an agency after a downsizing and being able to figure out what is the rightsizing for the agency. To him it is a resource that they are being deprived of as a team and that's why he brings it up. The two issues to him are interrelated.

11. Chief Counsel's Report:

Chief Counsel Levy report that in terms of litigation that for the last number of years running CUIAB hit a record of 92% success rate in the superior court with a particularly high caseload; 87 wins and 8 losses in the superior court and 13 wins and 2 loses in the court of appeal this year. He commented that what that means is the superior courts are agreeing with the board's decisions, which is a good thing. Chief Counsel Levy commented that they have been working hard with the AG's Office to try to get our arms around the big caseload and to clean out some of the backlog in litigation. The legal office will start tracking court dates and brief filing dates which has not been done in the past. The DAGs have been handling CUIAB's litigation pretty much on their own and we are staying closer touch with them about the status of it. That is the program that Assistant Chief Canella was referring to so that we can better stay on top of our litigation and know what is coming down the pike. He stated that they are making progress in cleaning out some of the older cases but there are some where you just have the parties who are not doing what it takes to finalize their case and it's up to them to do that.

12. Unfinished and New Business:

No unfinished or new business.

13. Closed Session:

The Board went into closed session. No votes were reported.

Adjournment