



**MEMO**

**To : POLICY AND PROCEDURE COMMITTEE  
KATHRYN DOI, CHAIR  
RYAN BROOKS, MEMBER**

**Date:** June 14, 2016

**From : WILLIAM G. BRENNAN  
ROBIN PARKER**

**Subject: CONSIDERATION OF PROPOSED REVISIONS TO THE ASSIGNMENT OF MANDATORY SETTLEMENT CONFERENCES TO BOARD ADMINISTRATIVE LAW JUDGES WHEREIN MERILYN WONG WOULD FUNCTION AS THE DESIGNATED SETTLEMENT JUDGE ON AN INTERIM BASIS**

**BACKGROUND**

Since 2011, the Board has not hired any new Administrative Law Judges (ALJs). Until recently, the Board had enough trained ALJs to meet its needs even with Jerry Prod's retirement in 2013. That is not currently the case. Kym Pipkin is temporarily unavailable to preside over any matters for personal reasons. This leaves only two ALJs for merits hearings (Woodward Hagle and Ryerson), and three ALJs for settlement conferences (Woodward Hagle, Ryerson and Wong).<sup>1</sup> There has already been one merits hearing<sup>2</sup> for a total of five hearing days, as indicated in the chart below:

Case	ALJ	Hearing	Proposed Meeting
Hooman Automotive Group, dba Hooman Chrysler Jeep Dodge Ram v. Fiat Chrysler Automobiles	Woodward Hagle	May 16-20, 2016	September 9, or 12-13, 2016

The chart below indicates the upcoming hearings that have tentatively been set by counsel. ALJ Woodward Hagle is set to preside over the merits hearing in *Dependable Dodge* since

<sup>1</sup> Unless otherwise stipulated by the parties, the ALJ at the settlement conference shall not preside at the hearing on the merits or in any proceeding relating to motions for temporary relief or interim orders. (13 CCR § 551.11(a))

<sup>2</sup> The April 25, 2016, merits hearing in *Hayward Nissan Corporation dba Hayward Nissan v. Nissan of North America, Inc.* (Protest Nos. PR-2374-13 and PR-2381-13) settled after oral arguments on six Motions in Limine. It was assigned to ALJ Ryerson and set for 10 days. The hearing in *California New Car Dealers Association v. Jaguar* (PR-2363-16) was held telephonically on April 8, 2016, and will likely resume in late 2016.

ALJ Ryerson presided over the settlement conference and the parties indicated this matter is going forward.

Case	ALJ (tentative)	Hearing	Proposed Meeting
Dependable Dodge, Inc. v. Fiat Chrysler Automobiles, Inc. (Protest Nos. PR-2435-15 and PR-2436-15)	Woodward Hagle	August 15, 2016 (14 days)	January 2017
Ball Automotive Group dba Ball Kia v. Kia Motors America, Inc. (Protest No. PR-2419-15)	No ALJ is available (Checking with ALJ Wong)	September 26, 2016 (15 days)  [Parties are proposing a new hearing date of October 31, 2016]	March 2017
Walter Timmons Enterprises, Inc. dba Timmons Subaru v. Subaru of America, Inc. (Protest No. PR-2422-15)	<i>Ryerson</i>	December 12, 2016 (10 days)	May 2017
California New Car Dealers Association v. Jaguar Land Rover North America, LLC (Protest No. PR-2463-16)	Woodward Hagle	Resumption in late 2016 or early 2017	May or June 2017
Downtown Auto Center dba Downtown Subaru v. Subaru of America, Inc. (Protest No. PR-2403-14)	TBA	February 27, 2017 (8 days)	June or July 2017

In light of the above, the staff is attempting to recruit ALJ candidates from referrals provided by existing ALJs as well as a Job Opportunity Bulletin. The Board has an established policy concerning the hiring of ALJs and interviews the candidate(s) at a noticed meeting. Given the lengthy training and mentoring provided to new ALJs, it is unlikely that newly hired ALJs would be assigned merits hearings until spring 2017.

**RECOMMENDATION**

It is recommended that ALJ Wong be designated the Mandatory Settlement Conference ALJ and preside over all settlement conferences for an interim period of six months. This enables ALJs Woodward Hagle and Ryerson to preside over the merits hearings tentatively scheduled between August and December 2016. An update concerning this interim assignment will be agendized for the November 2016 or January 2017, General Meeting.

This matter is being agendized for consideration at the June 28, 2016, General meeting. If you have any questions or would like additional information, please do not hesitate to contact me at (916) 324-6197 or Robin at (916) 323-1536.

cc: Glenn Stevens, President