

## 550. Definitions.

For the purposes of these rules:

- (a) "Board" means the New Motor Vehicle Board.
- (b) "Department" means the Department of Motor Vehicles of the State of California.
- (c) "Director" means the director of the department.
- (d) "Executive Director" means the executive director of the board.
- (e) Unless otherwise designated, the words "respondent," "appellant" or "party" mean the real party in interest.
- (f) "Party" includes the petitioner, respondent, department, appellant or director.
- (g) "Petitioner" means any person including a board member seeking consideration by the board under subsection (c) of section 3050 of the Vehicle Code of a matter involving a person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative.
- (h) "Respondent" means any licensed new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as defined in sections 426, 672, 389, 296, 297 and 512, respectively, of the Vehicle Code.
- (i) "Manufacturer" means any new motor vehicle manufacturer or manufacturer branch required to be licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code.
- (j) "Distributor" means any new motor vehicle distributor or distributor branch required to be licensed pursuant to Article 1 (commencing with section 11700) of Chapter 4 of Division 5 of the Vehicle Code.
- (k) "Protestant" means any licensed new motor vehicle dealer as defined in section 426 of the Vehicle Code.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050-3058, Vehicle Code; and Section 472(b), Business and Professions Code.

### 551.11. Settlement Conference: Separation of Powers

(a) The administrative law judge 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 unless otherwise stipulated by the parties. Nothing in this regulation shall affect or limit the provisions of Vehicle Code § 3050.4.

(b) The parties shall file a written settlement conference statement that contains a detailed statement of facts, a statement of issues, and a good faith settlement proposal. The settlement conference statement shall be received by the Board and exchanged between the parties no later than five business days before the settlement conference.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050 and 3050.4, Vehicle Code.

### 551.12. Peremptory Challenge

A party is entitled to one disqualification without cause (peremptory challenge) of an assigned administrative law judge ~~which~~ that will be granted subject to the following:

(a) A party is not entitled to a peremptory challenge in any proceeding relating to applications for temporary relief or interim orders.

(b) The peremptory challenge shall be directed to the executive director of the board (or designee) or the assigned administrative law judge.

(c) The peremptory challenge shall be made by the party, attorney or authorized representative appearing in any proceeding by written declaration consistent with the requirement of subsection (i), below.

(d) Notice of a peremptory challenge shall be served on opposing parties.

~~(e) If an administrative law judge is assigned 15 days in advance of the hearing, then the peremptory challenge shall be made not later than 5 working days before the hearing. If an administrative law judge is not assigned 15 days in advance of the hearing, then the peremptory challenge shall be made within 10 days of the assignment or at the hearing, whichever occurs first. The~~  
peremptory challenge shall be made within 10 days of the assignment of the administrative law judge, or 20 days prior to the hearing, whichever occurs first.

(f) Any peremptory challenge by any other party to a subsequently assigned administrative law judge shall be made within 10 days of the assignment or at the hearing, whichever occurs first.

(g) In no event shall any peremptory challenge be entertained if it is made after the commencement of hearing.

(h) Assignments of administrative law judges may be ascertained by contacting the executive director of the board (or designee) ~~no sooner than 15~~ 30 days in advance of the hearing.

(i) Any declaration filed pursuant to this regulation shall be in substantially the following form:

I,     (name)    , declare: That I am a party (or attorney or authorized representative for a party) to the pending matter. That the administrative law judge assigned to the hearing is prejudiced against the party (or his or her attorney or authorized representative of record) or the interest of the party (or his or her attorney or authorized representative) so that the declarant cannot or believes that he or she cannot have a fair and impartial hearing before the administrative law judge.

This declaration is under penalty of perjury under the laws of the state of California and is signed     (date)     at     (city and state)    .

(j) Unless required for the convenience of the board or unless good cause is shown, a continuance of the hearing shall not be granted by reason of the making of a peremptory challenge. If a continuance is granted, the matter shall be continued to the first convenient day for the board and shall be reassigned or

transferred for hearing as promptly as possible. Nothing in this regulation shall affect or limit the provisions of Vehicle Code § 3066(a).

(k) Nothing in this regulation shall affect or limit the provisions of a challenge for cause under Article 1, section 551.1.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code; and Section 11425.40, Government Code.