

§ 551.21. Sanctions - Bad Faith Actions.

(a) The board may order, or an ALJ designated by the board may recommend ordering a party, a party's representative or both, to pay reasonable sanctions, including attorney's fees and costs, incurred by another party as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay.

(1) "Actions or tactics" include, but are not limited to, the making or opposing of motions or the failure to comply with a lawful order or ruling of the board.

(2) "Frivolous" means:

(A) Totally without merit; or

(B) For the sole purpose of harassing an opposing party.

(b) The board shall not order sanctions, or an ALJ designated by the board shall not recommend an award of sanctions, without providing notice and an opportunity to be heard.

(c) Whether there has been bad faith by a party shall be determined by the ALJ based upon testimony under oath or other evidence. Any proposed order recommending sanctions by the ALJ shall be on the record, or in writing, setting forth the factual findings on which the sanctions are based, as well as setting forth the factual findings as to the reasonableness of the amount(s) to be paid.

(d) A proposed order recommending an award of sanctions shall be considered by the board members at their next regularly scheduled meeting. A determination not to award sanctions ~~is~~ shall not be considered by the board members and is final upon issuance by the ALJ.

(e) The board members' consideration to affirm, reject or modify the ALJ's award of sanctions does not alone constitute grounds for continuance of any previously scheduled dates in the proceeding.

Note: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 128.5, Code of Civil Procedure; Section 11455.30, Government Code; and Section 3050.2, Vehicle Code