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In the Matter of the Compensation of  
**RICHARD D. PENTECOST, Claimant**  
WCB Case No. 15-05879  
ORDER ON REVIEW (REMANDING)  
Dodge and Associates, Claimant Attorneys  
Law Offices of Kathryn R Morton, Defense Attorneys

Reviewing Panel: Members Lanning and Johnson.

The insurer requests review of Administrative Law Judge (ALJ) Otto's order that approved the parties' "Stipulation." We remand.

We have discretionary authority to remand when, in our judgment, we find the record to be improperly, incompletely, or otherwise insufficiently developed. ORS 656.295(5).

Here, the ALJ approved the parties' "Stipulation" on April 26, 2016. Within 30 days of the ALJ's approval order, the insurer requested Board review of that order, asserting that it had obtained new information that it did not have before signing the Stipulation. Based on the new information, the insurer requests that we rescind the ALJ's Order Approving Settlement (Stipulation) or, alternatively, reopen the record and remand the issue to the ALJ. In response, claimant contends that there is no legal authority allowing for rescission of the Stipulation and approval order under these circumstances, and, alternatively, even if we concluded there was such authority, the insurer does not give a legitimate reason for the rescission.

No record has been developed upon which to determine the circumstances surrounding the execution of the parties' stipulation. Thus, the record is insufficiently developed to resolve the issue arising from the insurer's appeal, which objects to the ALJ's approval of the stipulation. Under these circumstances, we conclude that remand is warranted. *See Jack A. Strubel*, 68 Van Natta 408 (2016) (remanding a timely appealed order approving a DCS to the ALJ to develop a record from which to determine the circumstances surrounding execution of the parties' settlement); *Deborah Kolb-Witt*, 62 Van Natta 2107 (2010) (same); *Rita M. Allison*, 62 Van Natta 2272 (2010) (remanding an appealed stipulation to develop a record from which to evaluate the claimant's objection to the ALJ's approval of the stipulation).

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Accordingly, this matter is remanded to ALJ Otto with instructions to conduct further proceedings designed to develop this record.<sup>1</sup> Those proceedings may be conducted in any manner the ALJ deems achieves substantial justice. After closing the record and considering the parties' submissions and arguments, the ALJ shall issue a final, appealable order.

**IT IS SO ORDERED.**

Entered at Salem, Oregon on August 2, 2016

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<sup>1</sup> In remanding this case to the ALJ, we are not vacating the Stipulation. We are, instead, allowing the ALJ to develop a record and consider the parties' respective positions, and then rule on the validity of the agreement.