

1 **Schmitz vs State Board of Chiropractic Examiners 2022 ND 113 Docket 20210135**

2 **Highlight:** A formal, evidentiary hearing is required whenever an administrative agency acts in a quasi-judicial
3 capacity unless the parties either agree otherwise or there is no dispute of a material fact. Even when facts are
4 undisputed, a summary judgment may not be granted if reasonable differences of opinion exist as to the inferences
5 to be drawn from those facts.

6 ¶19] On this record, we conclude reasonable persons could reach more than “one conclusion from the facts.” We
7 therefore conclude the ALJ **improperly** conducted a “mini-trial” under the guise of summary judgment.

- 8 • Dr. Schmitz testified for HB **1154** which passed the floor. Sponsored by twelve legislators.

9 ‘We conclude the Board’s final order, adopting an administrative law judge’s (“ALJ”) recommended order for
10 summary judgment, **erred** in granting summary judgment on the Board’s claims against Dr. Schmitz.’

- 11 • Dr. Schmitz testified for SB **2296** which passed the floor. Sponsored by six legislators.

12 ‘On this issue, a parallel case has already established the Board **violated** the open meetings and records law in the
13 prior proceedings, and required release of additional portions of the executive meeting.’

- 14 • Dr. Schmitz testified for HB **1517** which passed the floor. Sponsored by eight legislators.
- 15 • Chiropractic Board HB **1105** did not pass. Sponsored by zero legislators.

16 ¶20] Because the Board **erred** in accepting the ALJ’s recommended order and
17 **failing** to hold the evidentiary hearing required by statute, we reverse and remand to the Board
18 for an evidentiary hearing as specifically contemplated under N.D.C.C. §§ 43-06-15 and 28-32-21.

- 19 • Chiropractic Board SB **2064**. Sponsored by zero legislators.

20 ¶26] ‘The Board does not explain why it **disregarded** the ALJ’s recommendation for a hearing’.

21
22 The Supreme Court ruled a hearing is required.

23 The Chiropractic Board wants to change the code to remove the word hearing.

24 Supreme Court Ruling

25 **Highlight:** A formal, evidentiary hearing is required

26 Chiropractic Board Bill 2064

27 **proceed with a hearing on the matter**