

**WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA**

**DELINA PLEASANTS ARTRY, *Applicant***

**vs.**

**LOS ANGELES UNIFIED SCHOOL DISTRICT, *Permissibly Self-Insured, Defendant***

**Adjudication Numbers: ADJ10852874, ADJ12158746  
Van Nuys District Office**

**OPINION AND DECISION  
AFTER REMAND**

The following Opinion and Decision After Remand is issued pursuant to the January 2, 2024 Order made by the Second District Court of Appeal (Div. 3) in B330312. In that Order, the Court honored the Appeals Board's request to annul the Board's Opinion and Order Denying Petition for Reconsideration of June 6, 2023, and to remand this matter to the Board for further proceedings. For the reasons discussed below, and in place of our decision of June 6, 2023 that was annulled by the Court of Appeal, we will grant reconsideration of the Joint Findings and Orders issued by the workers' compensation administrative law judge ("WCJ") on March 16, 2023, and we will rescind that decision and return this matter to the trial level for further proceedings and new decision by the WCJ.

We begin by noting that in the Joint Findings and Orders on March 16, 2023, the WCJ found, based on the five-year statute of limitations under Labor Code section 5410, that "applicant has not filed a timely petition to reopen in this matter." As discussed in the Board's letter brief to the Court of Appeal, however, the Opinion on Decision issued by the WCJ in support of his Joint Findings and Orders of March 16, 2023 did not provide applicant with a meaningful opportunity to seek reconsideration. Applicant was denied this opportunity because the WCJ's Opinion on Decision did not comply with Labor Code section 5313 or the Appeals Board's en banc holding in *Hamilton v. Lockheed Corp.* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc) ("*Hamilton*"). In *Hamilton*, the Board stated that for an Opinion on Decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.

In this case, the WCJ did not follow *Hamilton* in determining that applicant failed to timely seek to reopen her Stipulated Award of January 20, 2019, which included a stipulated injury date of May 29, 2016. On the penultimate page of his (unpaginated) Opinion on Decision, the WCJ did not specifically refer to the record in stating: “I see that, in some of the questions asserted by the applicant counsel [sic] to the physicians, the applicant counsel [sic] refers back to review of medical reporting prior to the Stipulations so as to include the low back and stress to the specific date of injury. The parties had knowledge of these reports in advance of the Stipulations with Request for Award that essentially stipulated out these body parts.”

In addition, it appears that the WCJ’s Opinion on Decision may contain a misstatement or misapprehension of law. In the ninth paragraph under the heading “Petition to Reopen,” the WCJ states: “The record does not [include] evidence that there was a “filing” [of a petition to reopen] with the WCAB. The 5-year statute for filing with the WCAB *has been strict.*” (Italics added.)

To the extent the WCJ believes petitions to reopen or for new and further disability are subject to strict pleading requirements, we disagree. As discussed in *Watson v. Los Angeles County Probation Dept.* (2024) 2024 Cal. Wrk. Comp. P.D. LEXIS 293, it is settled law in workers’ compensation proceedings that: (1) pleadings may be informal; (2) claims should be adjudicated based on substance rather than form; (3) pleadings should be liberally construed so as not to defeat or undermine an injured employee’s right to make a claim; and (4) technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction. (2024 Cal. Wrk. Comp. P.D. LEXIS 293 at p. \*19, string citations omitted.)

Finally, we note that at trial on February 16, 2023, defendant asserted the five-year statute of limitation for petitions to reopen, yet applicant specifically countered this with an assertion, on the record, that defendant is estopped from asserting the statute of limitations. (Minutes of Hearing, 2/16/23, p. 3.) As the Board explained to the Court of Appeal, the WCJ did not address the issue of estoppel. There was no substantive discussion of the elements of equitable estoppel in either the WCJ’s Opinion on Decision or in his Report, and there was no specific discussion as to how the evidence either does or does not support applicant’s claim that defendant should be equitably estopped from raising Labor Code section 5410 to bar applicant’s claim of new and further disability. (See e.g., *Honeywell v. Workers’ Comp. Appeals Bd.* (2005) 35 Cal.4th 24.)

Consistent with the foregoing discussion and with the January 2, 2024 Order issued by the Court of Appeal, as our Decision After Remand we will grant reconsideration of the Joint Findings

and Orders issued by the WCJ on March 16, 2023 and we will rescind that decision. In addition, we will return this matter to the trial level for further proceedings and new decision by the WCJ. It should be noted that we express no final opinion on the merits of any substantive issue. When the WCJ issues a new decision, any aggrieved party may seek reconsideration as provided in Labor Code sections 5900 *et seq.*

For the foregoing reasons,

**IT IS ORDERED**, as the Decision After Remand of the Workers' Compensation Appeals Board, that reconsideration of the Joint Findings and Orders of March 16, 2023 is **GRANTED**.

**IT IS FURTHER ORDERED**, as the Decision After Remand of the Workers' Compensation Appeals Board, that the Joint Findings and Orders of March 16, 2023 is **RESCINDED**, and this matter is **RETURNED** to the trial level for further proceedings and new decision by the WCJ, consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**/s/ CRAIG SNELLINGS, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**October 21, 2024**

**SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.**

**DELINA PLEASANTS ARTRY  
MICHAEL BURGIS & ASSOCIATES, P.C.  
TOBIN LUCKS, LLP**

**JTL/ara**

*I certify that I affixed the official seal of  
the Workers' Compensation Appeals  
Board to this original decision on this  
date. o.o*