

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

JUAN MARTINEZ, *Applicant*

vs.

GILBERT WEST, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants*

Adjudication Number: ADJ2326381 (LAO 0819300)
Los Angeles District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration in order to allow us time to further study the factual and legal issues in this case. We now issue our Opinion and Decision after Reconsideration.

Lien claimant Angoal Medical Collections (AMC) seeks reconsideration of February 13, 2020 Findings and Orders (F&O) issued by a workers' compensation administrative law judge (WCJ) wherein the WCJ disallowed the lien of AMC and dismissed the lien of Alan Rosenthal, D.C. AMC is a lien collection agency and according to the purchase agreements filed with the Workers Compensation Appeals Board, Julie Goalwin, M.D. and Alan Rosenthal, D.C., both assigned their interests in medical-legal costs and services in this case to AMC. Lien claimant argues that laches is not applicable to the current case and defendant was not prejudiced as a result of any delay in the filing of the lien assignments.

We have not received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations in the Petition. We have also reviewed the record in this matter and the contents of the Report. For the reasons discussed below, we will rescind the February 13, 2020 F&O and substitute a new F&O.

FACTS

Applicant while employed by defendant as a warehouse lead sustained injury during the period from November 1, 2001 through November 15, 2002 to the psyche, lumbar spine, and neck.

Applicant underwent medical-legal evaluations with Julie Goalwin, M.D. and Alan Rosenthal, D.C. The doctors reportedly incurred related medical-legal costs on September 20, 2003 and September 23, 2003, respectively. By way of a purchase agreement executed on September 29, 2003, Dr. Goalwin assigned her lien interest in this case to AMC. On October 11, 2003, Dr. Rosenthal similarly assigned his lien interest in this case to AMC. On January 22, 2004, AMC formally filed a lien for Dr. Goalwin's medical-legal evaluation and associated costs. On February 6, 2004, Dr. Rosenthal also filed a lien for his own medical-legal evaluation of applicant and associated costs. AMC, however, did not file its own lien with respect to Dr. Rosenthal's medical-legal evaluation and related costs.

Purchase agreements pertaining to the two liens were filed by AMC on May 22, 2019. The lien filed by AMC was disallowed and the lien of Dr. Rosenthal and dismissed by the WCJ on February 13, 2020.

DISCUSSION

Labor Code section 4903.8(a)¹ identifies who may be subject to an order or award for payment on a lien for services. It states, in relevant part:

- (1) Any order or award for payment of a lien filed pursuant to subdivision (b) of Section 4903.8 shall be made for payment only to the person who was entitled to payment for the expenses as provided in subdivision (b) of Section 4903 at the time the expenses were incurred, who is the lien owner, and not to an assignee unless the person has ceased doing business in the capacity held at the time the expenses were incurred and has assigned all right, title, and interest in the remaining accounts receivable to the assignee.
- (2) All liens filed pursuant to subdivision (b) of Section 4903 shall be filed in the name of the lien owner only, and no payment shall be made to any lien claimant without evidence that he or she is the owner of that lien.
- (3) Paragraph (1) does not apply to an assignment that was completed prior to January 1, 2013, or that was required by a contract that became enforceable and irrevocable prior to January 1, 2013. This paragraph is declarative of existing law.
- (4) For liens filed after January 1, 2017, the lien shall not be assigned unless the person has ceased doing business in the capacity held at the time the expenses were incurred and has assigned all right, title, and interest in the

¹ Unless otherwise stated, all further statutory references are to the Labor Code.

remaining accounts receivable to the assignee. The assignment of a lien, in violation of this paragraph is invalid by operation of law. (Lab. Code, § 4903.8(a), emphasis added.)

Section 4903.8(b) further indicates that for lien assignments, “a true and correct copy” is to be “filed and served.” The timeline for filing and service is determined by the date of the lien filing, but for liens filed before January 1, 2013, filing and service is to be completed the earliest of: January 1, 2014, along with the filing of a declaration of readiness to proceed, or at the time of a lien hearing. (Lab. Code, § 4903(b)(3).)

Here, the assignment of the lien of Dr. Goalwin was executed, and a formal lien filed, prior to January 1, 2013.² Costs related to the medical-legal evaluation conducted by Dr. Rosenthal were similarly assigned, and a lien filed,³ prior to January 1, 2013. AMC filed copies of the assignments on May 22, 2019. Although filing and service of the assignments were untimely, nothing within section 4903.8 indicates that the liens should be found invalid as a result.

Further, the appeals board has broad equitable powers with respect to matters within its jurisdiction. (*Dyer v. Workers' Comp. Appeals Bd.* (1994) 22 Cal.App.4th 1376, 1382 [28 Cal. Rptr. 2d 30].) Equitable doctrines such as laches are therefore applicable in workers' compensation proceedings. (*Truck Ins. Exchange v. Workers' Comp. Appeals Bd.* (2016) 2 Cal.App.5th 394, 401 [81 Cal.Comp.Cases 685].) Laches may also be applied to lien claims. (*Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (1985) 39 Cal.3d 57, 68, fn. 11 [50 Cal.Comp.Cases 411] [“a lien claim may be barred by laches if there is unjustifiable delay”].) The defense of laches, however, “requires unreasonable delay plus either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.” (*Conti v. Board of Civil Service Commissioners* (1969) 1 Cal.App.3d 351, 359, 360.) As such, once an unreasonable delay has been found, there must also be evidence of prejudice to the defendant due to the unreasonable delay. (*Ragan v. City of Hawthorne* (1989) 212 Cal.App.3d 1361, 1367.) To wit, prejudice is never presumed; rather it must be affirmatively demonstrated by the party asserting the defense for the party to sustain its burden of proof. (*Piscioneri v. City of Ontario* (2002) 95 Cal.App.4th 1037, 1050.) In the instant case, defendant provided no evidence that prejudice was

² The assignment was executed on September 29, 2003 and the lien filed with the WCAB on January 22, 2004.

³ Given that there is no dispute between Dr. Rosenthal and AMC as assignor-assignee, AMC will stand in the shoes of Dr. Rosenthal as lien claimant with respect to Dr. Rosenthal's lien filing.

suffered due to the delay. In light of lack of affirmative evidence of prejudice, we do not believe that the elements necessary to a finding of laches have been established. Accordingly, we will rescind the February 13, 2020 F&O and substitute a new F&O.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration, the February 13, 2020 Findings and Order is **RESCINDED** and the following substituted therefor:

FINDINGS OF FACT

1. Juan Martinez, born on May 14, 1966, while employed during the period commencing November 1, 2001 through November 15, 2002 as a warehouse lead person in Chino, California by Gilbert West, Inc., whose workers' compensation carrier was State Compensation Insurance Fund, sustained injury arising out of and occurring in the course of employment to the psyche, lumbar spine, and neck.
2. Medical-legal provider Julie Goalwin, M.D. incurred medical-legal costs on behalf of Applicant on September 20, 2003.
3. Julie Goalwin, M.D. assigned her interest in the receivables in this case to Lien Claimant, Angoal Medical Collections on September 29, 2003 by way of purchase agreement.
4. Julie Goalwin, M.D. billed Defendant for her medical-legal services on October 4, 2003.
5. Lien Claimant, Angoal Medical Collections, filed its lien on January 22, 2004.
6. Lien Claimant, Angoal Medical Collections, filed and service the purchase agreement with Julie Goalwin on May 22, 2019.
7. Defendant did not meet its burden to show that the delay in filing and serving the Angoal/Goalwin purchase agreement was unreasonable and prejudicial to Defendant.
8. The lien of Angoal Medical Collections is not barred by the equitable doctrine of laches.
9. Lien Claimant, Alan Rosenthal, M.D., incurred medical-legal costs on September 23, 2003.
10. Lien Claimant, Alan Rosenthal, M.D., assigned his interest in the receivables in this case to Angoal Medical Collections on October 11, 2003.

11. Lien Claimant, Alan Rosenthal, M.D., filed a lien on February 6, 2004.
12. All other issues are deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 28, 2024

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

**PAPERWORK & MORE
STATE COMPENSATION INSURANCE FUND**

RL/cs

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