

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

JULIO MENDOZA, *Applicant*

vs.

**TUFF-WELD WOOD SPECIALTIES;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ2284547 (LAO 0820988)
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.¹ We now issue our Opinion and Decision after Reconsideration.

Lien claimant, Angoal Medical Collections (AMC), seeks reconsideration of a January 28, 2020 Findings and Order (F&O) issued by a workers' compensation administrative law judge (WCJ) wherein the WCJ held, in relevant part, that AMC failed to timely file a notice of assignment under Labor Code² section 4903.8(b)(3) and declaration under section 4903.8(d) and that the said failures caused an "unjustifiable delay" which barred AMC's lien under "the equitable doctrine of laches."

AMC contends that defendant failed to "provide any evidence to prove" the "affirmative defense" of laches. (Petition, p. 5.) AMC further contends that based upon defendant's letter dated July 31, 2003 (Exhibit 1), defendant "lacks good cause" for non-payment since defendant's objection was based upon the mistaken belief that AMC's lien pertained to medical treatment rather than medical-legal services. (*Ibid.*)

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

¹ Commissioner Lowe, who was on the panel that issued a prior decision in this matter, no longer serves on the Appeals Board. Another panelist was appointed in her place.

² All further statutory references will be to the Labor Code unless otherwise indicated.

We have considered the Petition and the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will rescind the January 28, 2020 F&O and substitute it with a new F&O wherein we defer the issue of whether defendant met its burden to show that the delay in filing and serving the Angoal/Goalwin purchase agreement and declaration was unreasonable and prejudicial to defendant. We will also return the matter to the trial level for further actions consistent with this opinion.

FACTS

Applicant, while employed by defendant as a machine operator during the period from January 2002 through November 14, 2002, claimed injury to the psyche (depression and anxiety), chest pain, and stomach pain.

The parties proceeded with litigation and on May 22, 2023, applicant underwent a medical-legal evaluation with Julie Goalwin, M.D.

On June 21, 2003, a medical-legal report was issued by Dr. Goalwin (Exhibit 4) along with an itemized statement outlining the medical-legal costs incurred (Exhibit 2).

On August 7, 2003, AMC filed a Notice and Request for Allowance of Lien in the amount of \$3,110 for “reasonable medical expense incurred to prove a contested claim[.]” The date of service was listed as May 22, 2023.

On May 25, 2010, the WCJ issued an Order Dismissing Case wherein the case-in-chief was “dismissed without prejudice.”

On July 9, 2019, AMC filed a Notice of Representation along with a copy of a November 13, 2013 “Declaration in Accordance with Labor Code § 4903.8(d)” and a June 3, 2003 Purchase Agreement wherein Dr. Goalwin assigned her receivables in this case to AMC, in accordance with section 4903.8(a)-(b).

On June 20, 2019, AMC filed a Declaration of Readiness to Proceed to a lien conference.

On September 14, 2019, a lien conference was held, and the matter was set for a lien trial.

On December 19, 2019, a lien trial was held on the issues of AMC’s lien, laches, proper notice of assignment, declaration pursuant to section 4903.8(d), penalties and interest, and reimbursement of lien activation fees.

On January 28, 2020, the WCJ issued a F&O which held, in relevant part, that AMC failed to timely file a notice of assignment under section 4903.8(b)(3) and declaration under section

4903.8(d) and that said failures caused an “unjustifiable delay” which barred AMC’s lien under “the equitable doctrine of laches.”

DISCUSSION

Section 4903.8(a) 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 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 lien assignment agreement was entered into between Dr. Goalwin and AMC on June 3, 2003, and the lien was filed on August 7, 2003. The assignment itself, however, was not filed until July 9, 2019. Although filing of the lien assignment would be considered untimely under

section 4903.8(b), nothing within section 4903.8 indicates that the lien should be found invalid as a result.

The WCJ and defendant argue that laches applies herein. It is true that 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].) and that equitable doctrines such as laches are applicable in workers' compensation proceedings, including lien claims. (See *Truck Ins. Exchange v. Workers' Comp. Appeals Bd.* (2016) 2 Cal.App.5th 394, 401 [81 Cal.Comp.Cases 685]; *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 established, 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.) Thus, 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.)

By raising an affirmative defense, it is understood that the burden of proof rests on the defendant to establish affirmative evidence of the defense. (Lab. Code, § 5705(b).) The defendant is therefore required to prove each fact supporting its claim by a preponderance of the evidence. (Lab. Code, § 3202.5.) As explained in section 3202.5:

"Preponderance of the evidence" means that evidence that when weighed with that opposed to it, has more convincing force and the greater probability of truth. When weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of the evidence.

(Lab. Code, § 3202.5.)

In the instant matter, defendant failed to provide affirmative evidence that prejudice was suffered as a result to the delay. As such, there are insufficient findings of fact and evidence in support of laches. (*Vasquez v. Pers. Plus, Inc.* (April 17, 2018, ADJ8239530 and ADJ481462) [2018 Cal. Wrk. Comp. P.D. LEXIS 15] ["Laches is a question of fact to be determined by the trier of fact. (citation omitted.)

As explained in *Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc), a decision "must be based on admitted evidence in the record" (*Id.* at p. 478) and must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952, subd. (d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workers' Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) An adequate and complete record is also necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10787.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra*, at pp. 473, 475.) As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Id.* at p. 475.) This "enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful." (*Id.* at p. 476, citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].)

It is also well established that the Appeals Board has the discretionary authority to develop the record when appropriate to provide due process or fully adjudicate the issues. (Lab. Code, §§ 5701, 5906; *Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 9 Cal.App.4th 389 [62 Cal.Comp.Cases 924]; see *McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117 [63 Cal.Comp.Cases 261].) Under both the California and United States Constitutions, all parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [97 Cal Rptr. 2d 852, 65 Cal.Comp.Cases 805].) A fair hearing is "... one of 'the rudiments of fair play' assured to every litigant ..." (*Id.* at p. 158.) As stated by the California Supreme Court in *Carstens v. Pillsbury* (1916) 172 Cal. 572, "the commission ... must find facts and declare and enforce rights and liabilities, - in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law." (*Id.* at p. 577.) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses, introduce and inspect exhibits, and offer evidence in rebuttal. (See *Gangwish v. Workers' Comp.*

Appeals Bd. (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].)

Accordingly, we rescind the January 28, 2020 F&O and substitute it with a new F&O deferring the issue of whether defendant met its burden to show that the delay in filing and serving the Angoal/Goalwin purchase agreement and declaration was unreasonable and prejudicial to defendant. The matter is also returned to the trial level for further actions consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration, that the January 28, 2020 Findings and Order is **RESCINDED** and the following substituted therefor:

FINDINGS OF FACT

1. Julio Mendoza, born [], while employed during the period from January 2002 through November 14, 2002 as a machine operator in Van Nuys, California by Tuff-Weld Wood Specialties, insured by State Compensation Insurance Fund, claims to have sustained an arising out of and occurring in the course of employment to the psyche (depression and anxiety), chest pain, and stomach pain.
2. Medical-legal provider Julie Goalwin, M.D. incurred medical-legal costs on behalf of applicant on May 22, 2003.
3. Julie Goalwin, M.D. assigned her interest in the receivables in this case to lien claimant, Angoal Medical Collections, on June 3, 2003, by way of a purchase agreement.
4. Julie Goalwin, M.D. billed defendant for her medical-legal services on June 21, 2003.
5. Lien Claimant, Angoal Medical Collections, filed its lien on August 7, 2003.
6. Lien Claimant, Angoal Medical Collections, filed a Notice of Representation, Declaration in accordance with Labor Code § 4903.8(d), and the purchase agreement on July 19, 2019.
7. The issue of whether defendant met its burden to show that the delay in filing and serving the Angoal/Goalwin purchase agreement and declaration was unreasonable and prejudicial to defendant is deferred.

8. The issue of whether the lien of Angoal Medical Collections is barred by the equitable doctrine of laches is deferred.
9. All other issues are deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 19, 2025

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

**ANGOAL MEDICAL COLLECTIONS
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