WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ANGELA DERBY, ***Applicant***

vs.

CITY OF LOS ANGELES;
permissibly self-insured, administered by ACCLAMATION, ***Defendants***

Adjudication Number: ADJ3309119
Van Nuys District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

We have considered the allegations of the Petition for Reconsideration and the contents of the Report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated below, we will deny the Petition for Reconsideration.

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code[1] section 5909, which provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.)

During the period from July 2, 2024 through June 30, 2026, petitions for reconsideration were subject to former section 5909, which stated in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> > (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

[1] All further statutory references are to the Labor Code, unless otherwise noted.

> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a) (in effect from July 2, 2024 through June 30, 2026), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on June 24, 2024 and 60 days from the date of transmission is Sunday, August 23, 2026. The next business day that is 60 days from the date of transmission is Monday, August 24, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, August 24, 2026, so that we have timely acted on the petition as required by section 5909(a) (in effect from July 2, 2024 through June 30, 2026).

Section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Labor Code section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on June 24, 2024, and the case was transmitted to the Appeals Board on June 24, 2024. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026), because service of the Report in compliance with section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provided them with actual notice as to the commencement of the 60-day period on June 24, 2024.

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[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

II.

Section 4903 authorizes the filing of a lien "as against any sum to be paid as compensation," for multiple categories of expenses, including medical-legal expense (Lab. Code, § 4903(b).) Lien claimant herein seeks reimbursement for medical-legal expenses. (Minutes of Hearing and Summary of Evidence (MOH/SOE), 3/25/26, at p. 2:11-12.)

In 2016, the Legislature enacted section 4903.05 which provided for the filing of a written lien claim, and instituted new requirements associated with the filing of certain types of liens, including medical-legal liens under section 4903(b). Section 4903.05(c) provides:

> (1) For liens filed on or after January 1, 2017, any lien claim for expenses under subdivision (b) of Section 4903 that is subject to a filing fee under this section shall be accompanied at the time of filing by a declaration stating, under penalty of perjury, that the dispute is not subject to an independent bill review and independent medical review under Sections 4603.6 and 4610.5, respectively, that the lien claimant satisfies one of the following:
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>> (A) Is the employee's treating physician providing care through a medical provider network.
>> (B) Is the agreed medical evaluator or qualified medical evaluator.
>> (C) Has provided treatment authorized by the employer or claims administrator under Section 4610.
>> (D) Has made a diligent search and determined that the employer does not have a medical provider network in place.
>> (E) Has documentation that medical treatment has been neglected or unreasonably refused to the employee as provided by Section 4600.
>> (F) Can show that the expense was incurred for an emergency medical condition, as defined by subdivision (b) of Section 1317.1 of the Health and Safety Code.
>> (G) Is a certified interpreter rendering services during a medical-legal examination, a copy service providing medical-legal services, or has an expense allowed as a lien under rules adopted by the administrative director.
>
> (2) Lien claimants shall have until July 1, 2017, to file a declaration pursuant to paragraph (1) for any lien claim filed before January 1, 2017, for expenses pursuant to subdivision (b) of Section 4903 that is subject to a filing fee under this section.
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> (3) The failure to file a signed declaration under this subdivision shall result in the dismissal of the lien with prejudice by operation of law. Filing of a false declaration shall be grounds for dismissal with prejudice after notice.

(Lab. Code, § 4903.05(c).)

In addition, section 4903.06, subdivision (a) provides that "[a]ny lien filed pursuant to subdivision (b) of Section 4903 prior to January 1, 2013, and any cost that was filed as a lien prior to January 1, 2013, shall be subject to a lien activation fee unless the lien claimant provides proof of having paid a filing fee as previously required by former Section 4903.05 as added by Chapter 639 of the Statutes of 2003." (Lab. Code, § 4903.06, subd. (a).)

Here, there is no dispute that lien claimant filed its lien on November 14, 2012. (Petition for Reconsideration at p. 2:7-9.) Further, the parties do not dispute that lien claimant did not file the declaration required under section 4903.05(c). (Petition for Reconsideration, at p. 7:17-19.) Rather, lien claimant contends that because its lien was filed prior to January 1, 2013 and was thus subject to the activation fee of section 4903.06, it was not required to file the declaration specified by section 4903.05(c). (Petition for Reconsideration, at p. 5:3-10.)

In *Montelongo Gelson's Market* (February 11, 2022, ADJ2193346) [2022 Cal. Wrk. Comp. P.D. LEXIS 41] (Appeals Board panel decision), the Appeals Board panel discussed the circumstances giving rise to the amendments of sections 4903.05 and 4903.06 as follows:

> Sections 4903.05 and 4903.06 were added by Senate Bill (SB) 863 in 2012, and became effective January 1, 2013. Section 4903.05 was amended in 2016 by SB 1160 to add subdivision (c), the declaration requirement. The declaration requirement was described as an "anti-fraud measure." (Sen. Rules Com., Off. of Sen. Floor Analysis, Analysis of Sen. Bill No. 1160 (2015-1016 Reg. Sess.), as amended August 29, 2016, p. 4.) The anti-fraud measures in SB 1160 were described as follows:
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> > 14) Requires, for liens filed on or after January 1, 2017, a lien filer to specify in the lien filing the basis upon which the lien is authorized.
> >
> > 15) Requires these same data elements to be added to pre-existing liens, but allows until July 1, 2017, for lien filers to comply.
> >
> > 16) Provides that the failure to comply with the requirements noted above results in a dismissal of the lien with prejudice (Ibid.)
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> The Analysis of SB 1160 commented on the anti-fraud measures contained in the bill as follows:
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> > In a recent letter to the Commission on Health and Safety and Workers' Compensation, the author of SB 1160 identified fraud in the workers' compensation system as a fundamental challenge. Specifically, the letter

> cited the recent press coverage by the Center of Investigative Reporting, which detailed more than $1 billion in fraudulent activity by a variety of medical providers. The schemes have one common feature: the use of the workers' compensation lien system to monetize the fraud. Despite the criminal charges, medical bills and workers' compensation liens from doctors charged or even convicted of medical fraud continue to be pursued. Please see Senate Labor and Industrial Relations Committee policy analysis for an example of these schemes.
>
> *Overall, DWC places the dollar amount of liens held by providers who have been charged or convicted of workers' compensation fraud at $ 600 million - or 17% of all liens in the system.*
>
> SB 1160 addresses fraud in the workers' compensation lien process in three ways:
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> Second, **SB 1160 requires all lien claimants to file a declaration as to which specific category provided under existing law allows the claimant to file a lien**. As the statute that provides the specific categories for filing a lien is unchanged by SB 1160, the causes for filing a lien under existing law remain unchanged by SB 1160 - including denied industrial injuries. The only change is that a lien claimant must now file a declaration to support an assertion of rights. (Id., at p. 6, italics in the original, bold added.)

The legislative intent for the amendment of section 4903.05 to add the declaration requirement was to impose that requirement on "all lien claimants." (*Ibid*.) Section 4903.05(c)(1) addresses the declaration requirement for those liens filed after January 1, 2017, and section 4903.05(c)(2) addresses the declaration requirement for those liens filed before January 1, 2017.

Moreover, and contrary to lien claimant's contention, the purpose of the lien filing fee of section 4903.05 and the lien activation fee of section 4903.06 are not qualitatively different. They were both enacted to deter the filing of frivolous liens:

One of the reforms recommended by the Commission Report is the institution of a lien filing fee in order to deter the filing of liens generally, and particularly to deter the filing of frivolous liens.

SB 863 imposes a $ 150 filing fee for all liens filed on or after January 1, 2013. Cal. Lab. Code § 4903.05(c)(1). Plaintiffs do not challenge the filing fee in this action. More pertinently, SB 863 imposes a $100 "activation fee" for pending liens filed prior to January 1, 2013... The purpose of these fees, according to a report of the State Assembly's Committee on Insurance, is to "provide a

> disincentive to file frivolous liens." (*Angelotti Chiropractic v. Baker* (9th Cir. 2015) 791 F.3d 1075, 1079 [80 Cal. Comp. Cases 672], emphasis added.)
>
> (*Id.* at pp. 4-5.)

Based on the foregoing, the panel concluded "we will not - and cannot upset the legislative intent of the declaration requirement as requested by lien claimant." (*Id.* at p. 6.) Other Appeals Board panels have reached similar conclusions, including *Carrillo v. Troon Golf Management* (January 13, 2025, ADJ4642758), *Cornejo v. Sears Holding Corp.* (March 11, 2025, ADJ7580462) [2025 Cal. Wrk. Comp. P.D. LEXIS 65], *Hurst v. Kimco Staffing Services* (February 2, 2026, ADJ7937022 [2026 Cal. Wrk. Comp. P.D. LEXIS 9], and *Leshen v. State of California Highway Patrol* (March 23, 2026, ADJ6925586) [2026 Cal. Wrk. Comp. P.D. LEXIS 101].

Accordingly, we will deny lien claimant's Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 24, 2026

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

PLATINUM COPY
LIEN ON ME, INC.

PAG/cm

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