WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

HENRY CASTRO, *Applicant*

vs.

FRANKLIN TRUCK PARTS;
STATE COMPENSATION INSURANCE FUND, *Defendants*

Adjudication Numbers: ADJ1325052 (VNO 0481964); ADJ2353035 (VNO 0462982); ADJ3567848 (VNO 0465427); ADJ3208077 (VNO 0473826)
Van Nuys District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant seeks reconsideration of the Joint Findings of Fact and Opinion (F&O) issued on January 29, 2026. The workers' compensation administrative law judge (WCJ) found, "The liens of Dr. Schwarz are not dismissed. Dr. Schwarz timely filed declarations pursuant to Labor Code § 4903.05[1] and Labor Code § 4903.8."

Defendant argues that the declarations required by section 4903.05(c) for each of the pre-2013 liens and that the declaration required by section 4903.8(d) for all four liens was either untimely or prematurely filed, thereby rendering the liens invalid by operation of law.

Lien claimant filed an Answer. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) requesting that reconsideration be granted to address whether the liens filed in ADJ1325052 and ADJ2353035 should be dismissed for failure to pay a filing fee.

We have considered the allegations of the Petition for Reconsideration, the Answer, and the contents of the Report with respect thereto. Based on our review of the record, and for the reasons stated below, we will deny reconsideration.

[1] All further statutory references will be to the Labor Code unless otherwise indicated.

FACTS

Applicant has alleged four dates of injury while employed with defendant:

1. ADJ1325052: Applicant claims industrial injury arising out of and in the course of employment with defendant on September 2, 2003 to the lower extremities, trunk, knee, abdomen and multiple unspecified parts of body.
2. ADJ23553035: Applicant sustained injury AOE/COE while employed by defendant on October 18, 2002 to right knee, left knee, hypertension, lumbar spine, upper digestive tract, diabetes, and claims injury to lower extremity, circulatory system, leg, psyche, abdomen, finger, and trunk.
3. ADJ3567848: Applicant sustained injury AOE/COE while employed by defendant on May 1, 2002 to his back, knee, and lower leg.
4. ADJ3208077: Applicant sustained a cumulative trauma from March 1, 2002 through October 18, 2002 to his fingers, abdomen, and lower extremity.

All four claims were resolved via one compromise and release approved on February 22, 2021 in the amount of $210,000.00. Lien Claimant, Charles Schwartz, MD, was applicant's primary treating physician in all four claims. (Minutes of Hearing/Order of Consolidation (MOH), 07/17/2025.)

Lien claimant filed initial liens in ADJ1325052 and ADJ23553035 on December 11, 2003 and May 1, 2007 respectively.

On February 12, 2021, lien claimant filed a "Labor Code 4903.8(d) Declaration" on all four claims. (Lien Claimant's 5-8.)

On April 30, 2022, lien claimant filed liens on all four claims. The liens requested the same amount of $119632.21. (Lien Claimant's 1-4.)

After multiple continuances, the lien trial moved forward on July 17, 2025. The sole issue is listed as "whether the lien of Dr. Schwarz is dismissed due to not timely filing declarations pursuant to LC 4903.05 and LC 4903.8." (MOH, 07/17/2025, 3:4-5.)

On October 13, 2025, the WCJ issued a Joint Findings of Fact finding that the lien of Dr. Schwartz was dismissed due to not timely filing declarations pursuant to section 4903.05 and section 4903.8. In response, lien claimant filed a Petition for Reconsideration. The WCJ issued a

Joint Order Vacating Decision on October 30, 2025, noting that dates needed to be corrected and returning the matter to the trial calendar.

On November 20, 2025, the matter was resubmitted for decision on the same issue with the same stipulations. On January 29, 2026, the WCJ issued Findings of Fact in which it was found that the liens of Dr. Schwarz are not dismissed. She opined that for the latter two claims the declarations were clearly timely and that for the earlier filed claims, though the declarations were not filed timely pursuant to section 4903.8(d), that there is no consequence for the untimely filing.

I.

Former section 5909 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.) Effective July 2, 2024, section 5909 was amended to state 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.
>
> (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), 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 February 13, 2026 and 60 days from the date of transmission is April 14, 2026. This decision is issued by or on April 14, 2026, so that we have timely acted on the petition as required by section 5909(a).

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on February 13, 2026, and the case

was transmitted to the Appeals Board on February 13, 2026. 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) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on February 13, 2026.

DISCUSSION

Section 4600(a) requires the employer to provide all "[m]edical, surgical, chiropractic, acupuncture, licensed clinical social worker, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that [are] reasonably required to cure or relieve the injured worker from the effects of the worker's injury." (Lab. Code, § 4600, subd. (a).)

Section 4903 authorizes the filing of a lien "as against any sum to be paid as compensation," for multiple categories of expenses, including reasonable expenses for medical treatment pursuant to section 4600 incurred by or on behalf of the injured employee. (Lab Code, § 4903, subd. (b).)

At the outset, we note it is a fundamental precept that medical treatment is not apportionable. (*Granado v. Workmen's Comp. Appeals Bd*. (1968) 69 Cal. 2d 399 [33 Cal. Comp. Cases 647], *Dorman v. Workers' Comp. Appeals Bd.* (1978) 78 Cal. App. 3d 1009, 1020, [43 Cal. Comp. Cases 302, 309].) Where treatment of non-industrial conditions is necessary to provide treatment to industrial conditions, defendant cannot segregate and delay the necessary medical treatment because it also treats a non-industrial condition. As long as the injury contributes to the need for treatment, defendant is liable to the extent such treatment is reasonable and necessary. (See *South Coast Framing v. Workers' Comp. Appeals. Bd.* (2015) 61 Cal. 4th 291 [80 Cal. Comp. Cases 489] [Employer held liable for death from overdose where evidence that drugs prescribed for industrial injury contributed to the death].) Under these principles, an applicant receives a complete medical treatment visit, not a portion of a visit, and a providing physician receives payment for the cost of the visit, not a portion of a visit. More specifically, the cost of the visit for the purposes of reimbursement to the physician will not be parsed out or reduced based on the number of claims filed or whether the other claims are accepted or body parts denied. This is particularly true where, as is the case here, all four of applicant's cases were settled by one

compromise and release, involve treatment provided applicant by Dr. Schwarz's as primary treating physician, ordered consolidated for lien trial, involve overlapping body parts, and the responsibility for medical treatment fall upon the same defendant. Thus, lien claimant need only have one properly filed lien in order to pursue payment for the medical treatment provided applicant for an industrial injury regardless of the specific date of injury. Further, three of applicant's four claimed injuries were admitted industrial injuries, per the stipulations set forth at the lien trial, and as found by the WCJ.

In this case, the pleadings indicate that there is no dispute that the liens were timely filed but that requisite declarations were untimely filed. There is also no dispute that Dr. Schwartz was the primary treating physician for all four claims from 2003 through December 2020. Lien claimant filed declarations pursuant to section 4903.8(d) on all four claims on February 12, 2021 and filed liens on all four claims on April 30, 2022. Though confusing, the argument is really that the liens were timely but defectively filed because declarations were not filed timely or contemporaneous with the liens. Their position is that for the liens filed prior to 2013 in ADJ1325052 and ADJ2353035, the declaration required by section 4903.05 (c) was not filed by January 1, 2017 and that declarations required by section 4903.8(d) were likewise filed untimely. They also argue that for the liens filed on April 30, 2022 in ADJ3567848 and ADJ3208077 the declaration required by section 4903.8(d) was filed prior to the filing of the lien when it should have been filed concurrently. In other words, the declaration was premature.

We first address defendant's latter argument. We find it of no legal consequence that the declaration was filed prior to a lien being filed in those claims. We observe that the principles of "liberal pleading" have infused California's statutory landscape for more than 150 years. Enacted in 1872, Code of Civil Procedure section 452 requires that, "[i]n the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties." The workers' compensation system "was intended to afford a simple and nontechnical path to relief." (*Elkins v. Derby* (1974) 12 Cal. 3d 410, 419 [39 Cal. Comp. Cases 624]; Cf. Cal. Const., art. XX, § 21; § 3201.) Generally, "the informality of pleadings in workers' compensation proceedings before the Board has been recognized. (*Zurich Ins. Co. v. Workmen's Comp. Appeals Bd*. (1973) 9 Cal. 3d 848, 852 [38 Cal. Comp. Cases 500, 512]; *Bland v. Workmen's Comp. App. Bd.* (1970) 3 Cal. 3d 324, 328–334 [35 Cal. Comp. Cases 513].) "[I]t is an often-stated principle that the Act disfavors application of formalistic rules of

procedure that would defeat an employee's entitlement to rehabilitation benefits." (*Martino v. Workers' Comp. Appeals Bd.,* (2002) 103 Cal. App. 4th 485, 490 [67 Cal. Comp. Cases 1273].) Courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. (*Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal. App. 3d 196, 200–01 [50 Cal. Comp. Cases 160]; *Liberty Mutual Ins. Co. v. Workers' Comp. Appeals Bd.* (1980) 109 Cal. App. 3d 148, 152–153 [45 Cal. Comp. Cases 866].)

In *Dunzweiler v. Superior Court of Alameda County* (1968) 267 Cal. App. 2d 569, 577 [73 Cal. Rptr. 331], the Court of Appeal observed:

> If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and **where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion**. [Citations.] And as stated in *Jepsen v. Sherry* (1950) 99 Cal. App. 2d 119, 121 [220 P.2d 819], the discretion to be exercised by trial courts is "**one controlled by legal principles and is to be exercised in accordance with the spirit of the law and with a view to subserving, rather than defeating, the ends of substantial justice**." (Bolding added.) (*Dunzweiler v. Superior Court of Alameda County, supra,* 267 Cal. App. 2d at 577.)

Here, filing a lien after the declaration is analogous to timely amending a pleading. The later filing of the lien was otherwise timely as noted by the WCJ and not disputed by defendant. There is nothing in the statute that negates a previously filed declaration, as unconventional as it may be. Thus, there is no defect in the filing of the liens in ADJ3567848 and ADJ3208077.

We need not address the merits of the liens filed in 2003 or 2007, as there is a properly filed lien in at least one of the claims at issue and treatment is not apportionable. However, we do agree with the WCJ that because the treatment was ongoing, the lien filed on April 30, 2022 that was otherwise compliant with declaration requirements would not have been barred by any prior procedural deficiencies of a filing made over a decade earlier.

Likewise, by the logic outlined above that the lien claimant need only file one lien properly, the same is true that the filing fee need only be paid one time for the properly filed lien.[2] As such, there is no need to disturb the findings that all four liens are proper.

[2] Moreover, per the DIR website (https://www.dir.ca.gov/dwc/liens/liens_FAQs.htm) only one fee is paid if the same medical treatment expense claim is made by the same provider is filed in two or more cases by the same injured employee. Here the liens filed in April 2022 request the same amount in each claim and would therefore only be subject to one filing fee.

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 14, 2026

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

CHARLES SCHWARZ MD
TEDS MEDICAL SERVICES
STATE COMPENSATION INSURANCE FUND

TF/pm

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