

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

ZARAGOZA RODRIGUEZ, *Applicant*

vs.

PLEASANT VALLEY STATE PRISON, Legally Uninsured; STATE COMPENSATION INSURANCE FUND, STATE CONTRACT SERVICES, adjusting agency, *Defendants*

**Adjudication Number: ADJ9913554
Fresno District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration to further study the legal and factual issues raised in the Petition for Reconsideration (Petition) filed by lien claimant California Correctional Peace Officers Association Benefit Trust Fund (CCPOA). This is our Opinion and Decision After Reconsideration.

CCPOA seeks reconsideration of an Award issued by the workers' compensation administrative law judge (WCJ) on November 28, 2021 approving Stipulations with Request for Award (Stipulations) between applicant and defendant State Compensation Insurance Fund (SCIF) settling applicant's workers' compensation claim. The parties stipulated, in relevant part, that "DEFENDANT TO BE HELD HARMLESS AS TO THE CCPOA LIEN AS APPLICANT WILL RESOLVE THE LIEN WITH THE CCPOA." (Stipulations, November 23, 2021, p. 6.)

CCPOA contends that its lien, comprised of living expenses paid to applicant from April 24, 2015 to March 23, 2016, should have been included in the Award as a lien against applicant's compensation pursuant to Labor Code sections 4903(c) and 4903.1(a)(3).¹ CCPOA requests that the Award be vacated and that the WCJ issue a new award ordering reimbursement of CCPOA's lien against any unpaid benefits. CCPOA also contends that it was not served with a copy of the proposed Stipulations or the WCJ's Award in violation of its due process rights.

We received an Answer from applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

¹ Unless otherwise noted, all subsequent code citations will refer to the Labor Code.

We have considered the Petition for Reconsideration and the Answer, and the contents of the Report. Based on our review of the record, and for the reasons discussed below, as our Decision After Reconsideration, we will rescind the WCJ's November 28, 2021 Award and return the matter to the trial level for further proceedings consistent with this opinion.

BACKGROUND

We will briefly review the relevant facts.

On April 10, 2015, applicant filed an application for adjudication claiming industrial injury to his back on March 23, 2015, while employed by defendant Pleasant Valley State Prison as a correctional officer. Applicant subsequently filed an amended application for adjudication, adding GERD, constipation, and sexual dysfunction to his claim.

On April 18, 2016, CCPOA filed a "Notice of Request and Allowance for Lien" for reimbursement of \$37,826.00 for living expenses advanced to applicant during the period from April 24, 2015 to March 23, 2016.

On April 2, 2019, CCPOA filed a "Petition for Award of Lien," requesting an award for reimbursement for this amount per sections 4903 and 4903.1(a)(3)(A), which govern requests for reimbursement for living expenses paid to applicant "for the same day or days" that applicant also received temporary disability indemnity from defendant.

On November 23, 2021, applicant and SCIF entered into the Stipulations, settling applicant's case in chief. As relevant, in the "Liens" section of the settlement, the parties stipulated: "DEFENDANT TO BE HELD HARMLESS AS TO THE CCPOA LIEN AS APPLICANT WILL RESOLVE THE LIEN WITH THE CCPOA." (Stipulations, November 23, 2021, p. 6.)

On November 28, 2021, the WCJ issued an Award approving the settlement.

On August 29, 2022, CCPOA sought reconsideration of the Award.

DISCUSSION

CCPOA's primary argument is that it is entitled to reimbursement of its living expenses lien for payments made to applicant "for the same day or days" that applicant also received temporary disability indemnity from defendant, per sections 4903(c) and 4903.1(a)(3). However, there lies a more fundamental issue that must be addressed, namely, whether CCPOA was aggrieved by the Award approving the Stipulations. If CCPOA was not aggrieved by the Award, it lacks standing to challenge it. (*The Permanente Medical Group v. Workers' Comp. Appeals Bd. (Williams)* (1977) 73 Cal.App.3d 135, 139 [42 Cal.Comp.Cases 745].)

“The Workers’ Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.” (Cal. Code Regs., tit. 8, § 10700(b).)

We observe that contract principles apply to settlements of workers’ compensation disputes. The legal principles governing stipulations with request for award are the same as those governing other contracts. (*Burbank Studios v. Workers’ Comp. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) For stipulations with request for award to be effective, the necessary elements of a contract must exist, which includes the mutual consent of the parties. (Civ. Code, §§ 1550, 1565, 1580; *Yount, supra*.) Put another way, there can be no contract unless there is a meeting of the minds and the parties mutually agree upon the same thing. (Civ. Code, §§ 1550, 1565, 1580; *Sackett v. Starr* (1949) 95 Cal.App.2d 128, 133; *Sieck v. Hall* (1934) 139 Cal.App. 279, 291; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App. 133, 137.)

Because the stipulations with request for award constitute a written contract, the parties’ intention should be ascertained, if possible, from the writing alone, and the language of the contract governs its interpretation, if the language is clear and explicit, and does not involve an absurdity. (Civ. Code, §§ 1638, 1639; *TRB Investments, Inc. v. Fireman’s Fund Ins. Co.* (2006) 40 Cal.4th 19, 27 (*TRB Investments*).) A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (Civ. Code, § 1636; *TRB Investments, supra*, at p. 27; *County of San Joaquin v. Workers’ Comp. Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

Moreover, all parties in workers’ compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers’ Comp. Appeals Bd. (Rucker)* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (*Gangwish v. Workers’ Comp. Appeals Bd. (Gangwish)* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at pp. 157-158, citing *Kaiser Co. v. Industrial Acc. Com.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers’ Comp. Appeals Bd.* (1992) 5

Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].) Due process also requires that parties be informed of the scope and purpose of a proceeding that may affect their rights or liabilities. (See *Fidelity & Casualty Co. of New York v. Workers' Comp. Appeals Bd.* (1980) 103 Cal.App.3d 1001, 1015-1016 [45 Cal.Comp.Cases 381].)

Pursuant to section 5900(a):

Any person aggrieved directly or indirectly by any final order, decision, or award made and filed by the appeals board or a workers' compensation judge under any provision contained in this division, may petition the appeals board for reconsideration in respect to any matters determined or covered by the final order, decision, or award, and specified in the petition for reconsideration.

(Lab. Code, § 5900(a).)

Here, the Award approving the Stipulations with Request for Award is a final order subject to reconsideration. We have previously explained that a lien claimant is not aggrieved by an award approving a settlement between the employer/carrier and the employee if the lien is not part of the settlement. (*Williams, supra*, 73 Cal.App.3d at p. 139; *Oliver and Winston Inc. v. Workers' Comp. Appeals Bd. (Gregg)* (1983) 48 Cal.Comp.Cases 814 (writ denied).)

Here, there was clearly mutual intent by SCIF and applicant to include CCPOA's lien in the settlement because the parties stipulated that defendant would be held "harmless" against CCPOA's lien and that applicant would resolve the lien with CCPOA separately. (Stipulations, November 23, 2021, p. 6.) Because CCPOA's lien was included in the settlement, we conclude that it was aggrieved by the Award and therefore has standing to challenge it. (See *Boehm & Assocs. v. Workers' Comp. Appeals Bd.* (2003) 108 Cal.App.4th 137 [68 Cal.Comp.Cases 548]; *Williams, supra*, 73 Cal.App.3d at p. 139.)

We also agree with CCPOA that it was denied due process in the case, as there is no evidence that CCPOA was served with the proposed Stipulations prior to submission to the WCJ.

Lien claimants are entitled to due process in workers' compensation proceedings. (*Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd.* (1994) 26 Cal.App.4th 789, 803 [59 Cal.Comp.Cases 461]; *Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1204-1205 [57 Cal.Comp.Cases 149].) As noted above, due process requires that parties be fully apprised of the evidence submitted or to be considered and have the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and offer evidence in rebuttal. (*Gangwish*,

supra, 89 Cal.App.4th at p. 1295; *Massachusetts Bonding and Insurance Company v. Industrial Acc. Com. (Himes)* (1946) 74 Cal.App.2d 911, 914.)

Our review of SCIF’s proof of service filed in the Electronic Adjudication Management System (EAMS) indicates that CCPOA was not among the parties served with the proposed Stipulations. Absent service of the proposed settlement, CCPOA was unaware that its lien claim was at issue and was denied the opportunity to argue its right to reimbursement prior to the settlement’s approval.

Finally, we are unpersuaded by applicant’s assertion that CCPOA’s Petition for Reconsideration is untimely. Here, the WCJ assigned defendant the responsibility of serving the Award on all parties on the Official Address Record, which included CCPOA. (Award, November 28, 2021, p. 1.) However, a proof of service was not filed, as required by WCAB Rules 10610 and 10625(c), and, as a result, we are unable to determine the date of service. (Cal. Code Regs., tit. 8, §§ 10600, 10610, 10625(c); Lab. Code, § 5903.) Moreover, while the Appeals Board may designate a party to serve documents, service must still be in accordance with WCAB Rule 10628. (Cal. Code Regs., tit. 8, § 10628.) In sum, there is nothing in the record showing that CCPOA was served with the Award in a manner consistent with these rules.

There are 25 days allowed within which to file a petition for reconsideration from a “final” decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].) Where an order can be shown to have been defectively served, the time limit begins to run as of the date of receipt of the order. (*Hartford*

Accident & Indemnity Co. v. Workers' Comp. Appeals Bd. (Phillips) (1978) 86 Cal.App.3d 1 [43 Cal.Comp.Cases 1193].)

In the verified Petition for Reconsideration, CCPOA alleges that it learned of the Stipulations on August 29, 2022, when “reviewing EAMS activity on dormant files.” (Petition for Reconsideration, p. 3, lines 7-8.) CCPOA further alleges that “[t]he un-served Stipulations with Request for Award and un-served Award was discovered by the CCPOA Benefit Trust Fund’s representative on the same day that this petition is being filed.” (*Id.* at p. 5, lines 11-13.)

The Petition in this matter was filed on August 29, 2022. However, as discussed above CCPOA was not properly served with the Award, and based on CCPOA’s verified Petition, its first notice was on August 29, 2022. Thus, we conclude that the Petition was timely filed after CCPOA received the Award.

Based on the foregoing, as our Decision After Reconsideration, we rescind the WCJ’s November 28, 2021 Award and return the matter to the trial level for further proceedings consistent with this decision.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the November 28, 2021 Award is **RESCINDED** and the matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 30, 2026

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

**ZARAGOZA RODRIGUEZ
ADAMS, FERRONE & FERRONE
CCPOA BENEFIT TRUST FUND
LEGAL SERVICE BUREAU
STATE COMPENSATION INSURANCE FUND**

ACC/mt

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