

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

3 **MARIA MORENO,**

4 *Applicant,*

5 **vs.**

6 **KELLY SERVICES, INC.; Permissibly Self-**
7 **Insured, Administered By ESIS,**

8 *Defendants.*

Case No. **ADJ6690599**
 (Long Beach District Office)

OPINION AND ORDERS
 GRANTING DEFENDANT'S
 PETITION FOR RECONSIDERATION
 AND DISMISSING LIEN CLAIMANT'S
 PETITION FOR RECONSIDERATION,
 AND DECISION AFTER
 RECONSIDERATION

10
11 Defendant and lien claimant Express Case Management (ECM) both seek reconsideration of the
12 April 19, 2013 Finding, Award and Order (FAO), wherein the workers' compensation administrative law
13 judge (WCJ) found that applicant, while employed as a machine operator on October 17, 2008, sustained
14 industrial injury to her low back. The WCJ declined to admit into evidence several exhibits submitted by
15 ECM, and disallowed ECM's lien, finding that ECM failed to meet its burden of proof. The WCJ also
16 admitted into evidence several exhibits submitted by another lien claimant, Foundation Medical Group
17 (FMG), and found that FMG did meet its burden of proof on its lien. The WCJ ordered defendant to pay
18 FMG.

19 Defendant contends that the WCJ erred in admitting three of FMG's exhibits (Exhibits 409, 413,
20 and 417). Defendant also contends that the WCJ erred in not requiring that FMG comply with Labor
21 Code section 4903.8(d)¹.

22 Lien claimant ECM contends that the WCJ erred in disallowing its liens.

23 We have received defendant's Answer to ECM's Petition for Reconsideration (Petition). We
24 have not received an Answer from FMG to defendant's Petition. On May 20, 2013, the WCJ prepared a
25 Report and Recommendation of Workers' Compensation Judge on Petition for Reconsideration (Report
26

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

1 on Defendant's Petition), recommending that defendant's Petition be denied. On May 30, 2013, the WCJ
2 prepared a Report and Recommendation of Workers' Compensation Judge on Petition for
3 Reconsideration (Report on ECM's Petition), recommending that ECM's Petition be denied.

4 We have considered the two Petitions, defendant's Answer to ECM's Petition, the WCJ's two
5 Reports, and we have reviewed the record in this matter. For the reasons discussed below, we will grant
6 defendant's Petition, amend the WCJ's FAO as it pertains to lien claimant FMG (Findings of Fact Nos.
7 7-9, the Award, and the Order), and return this matter to the trial level for further proceedings and a new
8 decision by the WCJ. Additionally, we will dismiss ECM's Petition.

9 FACTS

10 Applicant, while employed by defendant as a machine operator on October 17, 2008, sustained an
11 admitted industrial injury to her low back. Applicant's case was resolved by way of a Compromise and
12 Release, and an order approving issued on June 9, 2011.

13 On October 31, 2012, FMG e-filed a \$27,742.16 lien.

14 A lien trial was held on February 7, 2013 regarding the liens of ECM, FMG, Aspen Medical, and
15 Unlimited Interpreting (the lien claimants). Each of the lien claimants submitted documentary exhibits
16 for admission into evidence. FMG submitted, among other documents, medical bills reflecting
17 applicant's treatment by Khalid B. Ahmed, M.D. (Exhibits 409, 413, and 417). Defendant objected to
18 the admission into evidence of these exhibits on the ground that "they were not accompanied by the
19 declaration required by [section 4903.8(d)] indicating under penalty of perjury that the services were
20 actually provided and the prices are correct." (February 7, 2013 Minutes of Hearing, 7:5-9.)

21 On April 19, 2013, the WCJ issued his FAO, admitting Exhibits 409, 413, and 417 into evidence,
22 finding that FMG had met its burden of proof on its lien, and ordering defendant to pay FMG
23 \$22,677.20. In the Opinion on Decision accompanying the FAO, the WCJ stated,

24 It is clear that none of the Lien Claimants filed and served the required
25 declarations. [Section 4903.8(d)] does appear to have an ambiguity in regards to
26 how a violation of the code section is treated for liens that were filed prior to
27 January 1, 2013. It is clear under [section 4903.8(e)], that if the lien is filed after
January 1, 2013, and violates this section, it is invalid. The section does not say
that a lien filed prior to January 1, 2013 is invalid for not having the declarations.

1 Based upon this ambiguity and no showing of any prejudice by the Defendant,
2 the motion to strike is overruled.” (Opinion on Decision, p. 5.)

3 On May 6, 2013, defendant timely sought reconsideration, contending that the WCJ erred in
4 admitting FMG’s billing records and in not requiring FMG to submit a sworn declaration, as required by
5 section 4903.8(d), stating that the services reflected in the billing records were actually provided and the
6 prices were correct.

7 On May 16, 2013, ECM sought reconsideration, contending that the WCJ erred in disallowing its
8 lien.

9 DISCUSSION

10 A. Defendant’s Petition

11 Section 4903.8, subdivision (d), provides, in relevant part,

12 At the time of filing of a lien on or after January 1, 2013, or in the case of a lien
13 filed before January 1, 2013, at the earliest of the filing of a declaration of
14 readiness, a lien hearing, or January 1, 2014, supporting documentation shall be
15 filed including one or more declarations under penalty of perjury by a natural
person or persons competent to testify to the facts stated, declaring both of the
following:

- 16 (1) The services or products described in the bill for services or products were
actually provided to the injured employee.
- 17 (2) The billing statement attached to the lien truly and accurately describes the
18 services or products that were provided to the injured employee. (Lab. Code,
19 § 4903.8(d)(1), (2).)

20 It is clear from the record before us that FMG did not file a declaration as required by section
21 4903.8(d). However, as the WCJ stated in his Report on Defendant’s Petition, section 4903.8(d) “is
22 silent as to the effect of a failure to comply for those liens that were filed before January 1, 2013.”
23 (Report on Defendant’s Petition, p. 3.) In other words, section 4903.8(d) does not provide a mechanism
24 for a WCJ to deny or dismiss a lien where no declaration is submitted, or where a declaration is
25 submitted but is not valid.

26 In light of this ambiguity, we will grant defendant’s Petition, affirm the WCJ’s FAO except that
27 we will amend it with respect to FGM’s lien, and return the matter to the WCJ for further proceedings.

1 Upon return, FMG should provide a declaration that complies with section 4903.8(d), after which
2 defendant may have the opportunity for its bill review experts to examine and testify regarding Exhibits
3 409, 413, and 417.

4 B. ECM's Petition

5 Turning to ECM's Petition, section 5903 allows any aggrieved person 20 days after service of a
6 final order, decision, or award to file a petition for reconsideration. The time for filing the petition is
7 extended five calendar days when service of the order is made by mail on an address within California.
8 (Cal. Code Regs., tit. 8, § 10507.) A petition is deemed "filed" when it is received. (Cal. Code Regs.,
9 tit. 8, §§ 10230(a), 10845(a).) The period in which to file a petition for reconsideration is mandatory and
10 jurisdictional and cannot be extended, even by stipulation. (Lab. Code, § 5900(a); *Rymer v. Hagler*
11 (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979,
12 984 [46 Cal. Comp. Cases 1008, 1011].) Here, the FAO was served on April 19, 2013. The last day that
13 a timely petition for reconsideration could be filed was May 14, 2013. ECM filed its Petition on May 16,
14 2013. It is therefore untimely, and we will dismiss it.

15 For the foregoing reasons,

16 **IT IS ORDERED** that lien claimant Express Case Management's Petition for Reconsideration of
17 the April 19, 2013 Finding, Award and Order is **DISMISSED**.

18 **IT IS FURTHER ORDERED** that defendant's Petition for Reconsideration of the April 19,
19 2013 Finding, Award and Order is **GRANTED**.

20 **IT IS FURTHER ORDERED**, as the Decision After Reconsideration of the Workers'
21 Compensation Appeals Board, that the April 19, 2013 Finding, Award and Order is **AFFIRMED**,
22 **EXCEPT THAT** Findings of Fact Nos. 7-9 and 14, the Award, and the Order are **AMENDED** as
23 follows:

24 ///

25 ///

26 ///

27 ///

1 **FINDINGS OF FACT**

- 2 7. Defendant's liability for the lien of lien claimant Foundation Medical
3 Group is deferred.
- 4 8. Lien claimant Foundation Medical Group's lien is deferred.
- 5 9. Lien claimant Foundation Medical Group's entitlement to penalties
6 and interest is deferred.
- 7 10. The motion to strike all of the lien claimants' billings under Labor
8 Code section 4903.8(d) is overruled as to lien claimants Aspen
9 Medical Equipment and Unlimited Interpreting, and deferred as to
10 lien claimant Foundation Medical Group.
- 11 14. The motion to exclude exhibits is overruled as to lien claimants
12 Aspen Medical Equipment and Unlimited Interpreting; therefore,
13 exhibits 201-207, 301, and 302 are admitted into evidence as
14 designated below. The motion to exclude exhibits is deferred as to
15 lien claimant Foundation Medical Group.

16 **AWARD**

17 **AWARD** with respect to lien claimant Foundation Medical Group's
18 lien is deferred.

19 **ORDER**

20 **IT IS ORDERED** as follows:

- 21 a. The issue of whether Foundation Medical is entitled to penalties and
22 interest is deferred.
- 23 e. The motion to strike all of the lien claimants' billings under Labor
24 Code section 4903.8(d) is overruled as to lien claimants Aspen
25 Medical Equipment and Unlimited Interpreting, and deferred as to
26 lien claimant Foundation Medical Group.
- 27 g. The motion to exclude exhibits is overruled as to lien claimants
Aspen Medical Equipment and Unlimited Interpreting, and deferred
as to lien claimant Foundation Medical Group.
- j. The issue of whether exhibits listed below are admitted into evidence
is deferred:

Lien Claimant's 409 (Foundation Medical Group) – Medical
bills dated January 29, 2013.

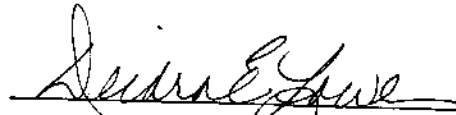
Lien Claimant's 413 (Foundation Medical Group) – Medical
bills dated October 31, 2012.


Lien Claimant's 417 (Foundation Medical Group) – Medical
Bills dated March 14, 2012.

1 **IT IS FURTHER ORDERED** that the matter is **RETURNED** to the trial level for further
2 proceedings and a new decision by the WCJ consistent with this opinion.
3

4 **WORKERS' COMPENSATION APPEALS BOARD**

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7 **I CONCUR,**


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10 **DEIDRA E. LOWE**

11 
12 **RONNIE G. CAPLANE**
13 **CONCURRING, BUT NOT SIGNING**

14 **ALFONSO J. MORESI**



15
16 **DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

17
18 **JUL 05 2013**

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

21 **MH EXPRESS PHARMACY**
22 **EXPRESS CASE MANAGEMENT**
23 **WALL MCCORMICK BAROLDI GREEN & DUGAN**
24
25

26 **RB/sye**
27

**STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board**

CASE NUMBER: ADJ6690599

MARIA MORENO

-vs.-

**KELLY SERVICES;
ESIS CHATSWORTH;**

**WORKERS' COMPENSATION JUDGE:
DATE OF INJURY:**

**Jeffrey Bruflat
10/17/2008**

**REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION
JUDGE ON PETITION FOR RECONSIDERATION**

I

INTRODUCTION

- | | | |
|----|----------------------------------|---|
| 1. | Applicant's Occupation: | Machine Operator |
| | Applicant's Age: | 53 |
| | Date of Injury: | 10/17/2008 |
| | Parts of Body Injured: | Low back |
| 2. | Identity of Petitioner: | Defendant, ESIS Chatsworth |
| | Timeliness: | Petition was timely filed on 05/06/2013 |
| | Verification: | Petition was verified |
| 3. | Date of Findings, Award & Order: | 04/19/2013 |
| 4. | Petitioner's Contentions: | |

The WCJ erred by: 1) Admitting Lien Claimant's exhibits 409, 413 and 417 as medical bills; 2) Failing to require Lien Claimant to comply with Labor Code Section 4903.8(d).

II

STATEMENT OF FACTS

The current matter was a lien trial involving four liens in an admitted injury claim to Applicant's low back. The treating physician was Dr. Ahmed. Dr. Ahmed's services were provided to the Applicant through Lien Claimant, Foundation Medical Group. The lien of Foundation Medical Group was in the sum of \$22,677.20. The lien was for dates of service from March 16, 2009, to and including May 25, 2011. Ultimately, the underlying case settled by way of Compromise and Release in the sum of \$21,000.00 on June 9, 2011.

At the trial, documentary evidence was presented by all parties. No witnesses were called by any party. Objections were made by Defendant, Petitioner herein, that all of the Lien Claimants' exhibits should not be admitted into evidence based upon alleged violations of Labor Code Sections 4903.8(a) and Labor Code Section 4903.8(d). The WCJ deferred rulings on those objections to the

time of the decision. Thereafter, the matter was submitted for decision on February 7, 2013.

A Findings, Award and Order were issued on April 19, 2013. Three of the liens were disallowed. The lien of Foundation Medical Group was awarded in the sum of \$22,677.20. The motion by Defendant, Petitioner herein, to exclude all of the exhibits of the Lien Claimants pursuant to the alleged violations of Labor Code Section 4903.8(a) was sustained as to the exhibits offered by Lien Claimant, Express Case Management. It was overruled as to the exhibits of the other three lien claimants. The motion by Defendant, Petitioner herein, to exclude all of the Lien Claimants' exhibits for an alleged violation of Labor Code Section 4903.8(d) was over ruled as to the exhibits of Lien Claimants Aspen Medical, Unlimited Interpreting and Foundation Medical Group.

Only the lien claim of Foundation Medical Group is at issue in the present Petition for Reconsideration. The other three lien claimants did not file petitions.

III DISCUSSION

A. Admitting Lien Claimant's exhibits 409, 413, and 417

The Petitioner alleges that exhibits 409, 413 and 417 should not have been admitted into evidence as medical bills. Petitioner claims in its petition that it objected to these exhibits on that basis. However, a review of the Minutes of Hearing, dated February 7, 2013, does not indicate that this objection was made by Petitioner. Specifically on pages 6 and 7, it states that the Petitioner had objected to the admissibility of the proffered exhibits of the Lien Claimants on the basis of the alleged violations of two code sections, Labor Code Section 4903.8(a) and (d). There is no objection listed in the Minutes of Hearing that the Petitioner objected to exhibits 409, 413 and 417 as not being proper medical bills.

The Petitioner was served with the Minutes of Hearing on February 12, 2013. If Petitioner felt that the WCJ failed to properly list the proposed objections to the exhibits, it should have requested that the Minutes be amended to reflect that objection. Petitioner never objected to the contents of those Minutes at any time. As such, the objection being argued herein was not addressed by the WCJ in his Findings, Award and Order. Consequentially, it was not discussed in the WCJ's Opinion on Decision. It is not proper to argue this objection for the first time on a Petition for Reconsideration. Any objection on the basis of the Lien Claimants' evidence as not being a proper bill should be deemed waived.

It should also be pointed out that the WCJ made the award to Lien Claimant, Foundation Medical Group, because it was determined, after reviewing the evidence, that the Lien Claimant had met its burden of proof by a preponderance of evidence as to the reasonableness and necessity of the services provided. There was no credible or persuasive evidence submitted on behalf of the Petitioner at the time of trial concerning this issue. The Petitioner even admits that it had two expert witnesses available to testify at the time of trial which it did not call. To fail to call rebuttable witnesses was the Petitioner's strategy in the presentation of its defense. The WCJ was not the one that excused those witnesses from testifying. The WCJ weighed the evidence as presented by the Lien Claimant in support of its lien and made the determination that the un rebutted evidence supported the lien. The

preponderance of the evidence weighed in favor of allowing the lien in its entirety less credit for payments made.

Additionally, the Lien Claimant was the treating physician in this matter. The Lien Claimant had treated the Applicant on an admitted injury for several years. There was a history of authorization and payment by Petitioner. As pointed out in the Opinion on Decision, there are actually two phases of treatment by the Lien Claimant. Phase one is just after the first examination by the AME wherein, the AME opined that the Applicant was in need of the treatment that the Lien Claimant was providing to the Applicant. On the merits of the lien, there was no rebuttable evidence offered at all in regards to this period of treatment. The second phase of the treatment program in question followed the last report of the AME on October 6, 2009. Contrary to the allegation of Petitioner in its Summary of the Case, the AME on October 6, 2009, did not say that the Applicant does not require any further treatment measures. The AME, on page 6 of that report, stated "Future care is indicated." The Lien Claimant presented evidence that there was a reasonable and necessary need for the services provided after that report. It was the determination of the WCJ that the actual treatment provided to the Applicant after October 6, 2009, was consistent and in conformity with the AME's future medical recommendations. Once again, there was no rebuttable evidence present in that regard.

B. Failing to require Lien Claimant to comply with Labor Code Section 4903.8(d)

Labor Code Section 4903.8(d) provides in pertinent part that for liens that are filed prior to January 1, 2013, that at the earliest of the filing of a declaration of readiness, a lien hearing, or January 1, 2014, supporting documentation shall be filed including a declaration under penalty of perjury that the services indicated in a billing were actually provided to the injured employee and that the billing statement truly and accurately describes the services provided to the injured employee.

This code section was enacted as part of SB 863. Labor Code Section does state that if the lien is filed after January 1, 2013, and does not have with it the supporting declaration under penalty of perjury, that it shall be deemed to be invalid. The code is silent as to the effect of a failure to comply for those liens that were filed before January 1, 2013.

This code section was enacted after the parties herein had filed the Declaration of Readiness to Proceed and after the parties had a lien conference. Any objection to the admissibility of the Lien Claimant's exhibits for failure to comply with this new code section was not listed as an issue at the time of the conference. The objection by Petitioner was overruled by the WCJ. There was no prejudice shown by Petitioner for lien claimant's failure to comply with this section.

There were several grounds for making this ruling besides it not being listed as an issue at the lien conference. First, the ground involves the principle of retroactivity. In workers' compensation cases, it is not uncommon to provide that newly stated judicial rules or newly stated judicial interpretations of statutes shall be applied prospectively only. Messele v. Pitco Foods, Inc. (2011) 76 Cal.Comp.Cases 1318, 1320. Here, to allow Petitioner to prevail in this respect would be unfair to the Lien Claimants as applied.

Secondly, Labor Code Section 4903.8 is silent as to the effect of any alleged failure to comply with Labor Code Section 4903.8(d) for liens that were filed "before" January 1, 2013. Labor Code

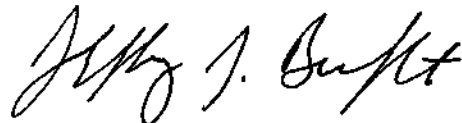
Section 4903.8(e) does state that a failure to comply with the requirements of Labor Code Section 4903.8(d) for liens filed "after" January 1, 2013, the failure means that the lien is invalid. There was no such legislative expression for the pre-January 1, 2013, liens. This uncertainty should not result in a Lien Claimant's exhibits from being introduced into evidence.

This WCJ did not ignore or fail to apply Labor Code Section 4903.8(d) in that regard. Where the statutory language is not clear and is ambiguous, there is room for interpretation. DuBois v. Workers' Comp. Appeals Bd. (1993) 5 Cal.4th 382, 387. The WCJ herein did not feel that it was proper to declare the lien claims invalid when the code section did not state specifically as it did for liens filed after January 1, 2013. Based upon the foregoing the Petitioner's objection was overruled. The exhibits were admitted into evidence.

IV
RECOMMENDATION

It is respectfully recommended that Applicant's Petition for Reconsideration be denied in its entirety.

DATE: May 20, 2013



Jeffrey Bruflat
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

Service on:
ASPEN MEDICAL RESOURCES ANAHEIM, US Mail
ESIS CHATSWORTH, US Mail
EXPRESS CASE MANAGEMENT, US Mail
FOUNDATION MED GRP PICO RIVERA, US Mail
PINNACLE LIEN SERVICES, US Mail
UNLIMITED INTERPRETING WHITTIER, US Mail
WALL MCCORMICK SANTA ANA, US Mail

By: *Agatha Magana* DATE: May 20, 2013

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ6690599

MARIA MORENO

-vs.-

KELLY SERVICES;
ESIS CHATSWORTH;

WORKERS' COMPENSATION JUDGE:
DATE OF INJURY:

Jeffrey Bruflat
10/17/2008

**REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION
JUDGE ON PETITION FOR RECONSIDERATION**

I

INTRODUCTION

- | | | |
|----|----------------------------------|---|
| 1. | Applicant's Occupation: | Machine Operator |
| | Applicant's Age: | 53 |
| | Date of Injury: | 10/17/2008 |
| | Parts of Body Injured: | Low back |
| 2. | Identity of Petitioner: | Lien Claimant, Express Case Management |
| | Timeliness: | Petition was not timely filed on 05/16/2013 |
| | Verification: | Petition was verified |
| 3. | Date of Findings, Award & Order: | 04/19/2013 |
| 4. | Petitioner's Contentions: | |

The WCJ erred by: 1) Excluding the exhibits and disallowing the lien of Express Case Management for being in violation of Labor Code Section 4903.8(a).

II

STATEMENT OF FACTS

The current matter was a lien trial involving four liens in an admitted injury claim to Applicant's low back. The lien in question herein is that of Express Case Management. The original lien was filed by Express Case Pharmacy for medical services in the sum of \$1,797.89 for dates of service from November 15, 2010, to and including June 7, 2011. At the time of the original filing, Petitioner was listed as the representative for Express Case Pharmacy. Express Case Pharmacy apparently assigned its right, title and interest in its lien to Express Case Management.

The other three liens are not at issue herein. Ultimately, the underlying case settled by way of Compromise and Release in the sum of \$21,000.00 on June 9, 2011.

At the trial, documentary evidence was presented by all parties. No witnesses were called by

any party. Objections were made by Defendant that all of the Lien Claimants' exhibits should not be admitted into evidence based upon alleged violations of Labor Code Sections 4903.8(a) and Labor Code Section 4903.8(d). The WCJ deferred rulings on those objections to the time of the decision. Thereafter, the matter was submitted for decision on February 7, 2013.

A Findings, Award and Order were issued on April 19, 2013. The lien of Express Case Management was disallowed. The motion by Defendant to exclude all of the exhibits of the Petitioner pursuant to the alleged violation of Labor Code Section 4903.8(a) was sustained as to the exhibits offered by Petitioner. Since Petitioner's exhibits were excluded for its violation of Labor Code Section 4903.8(a), the Petitioner failed to meet its burden of proof and its lien was disallowed. There was no ruling as to whether Petitioner's violation of Labor Code Section 4903.8(d) would also apply since it was disallowed for violating Labor Code Section 4903.8(a).

The Petition for Reconsideration filed by Express Case Management is not timely.

III DISCUSSION

A. Lien Claimant failed to comply with Labor Code Section 4903.8(a)

Labor Code Section 4903.8(a) provides in pertinent part:

"(a) Any order or award for payment of a lien filed pursuant to subdivision (b) of Section 4903 shall be made for payment only to the person who was entitled to payment for expenses as provided in subdivision (b) of Section 4903 at the time the expenses were incurred, 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 interests in the remaining accounts receivable to the assignee."

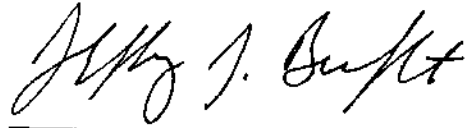
Lien claimant argues that the new law should not apply to its lien. It does not cite any authority for this proposition. The matter went to trial after the enactment of Labor Code Section 4903.8(a) and therefore pursuant to subsection (f), the section takes effect for the matter at bar. The original lien was filed by Express Case Pharmacy. At the time of the filing of that lien, Petitioner was listed as the representative of Express Case Pharmacy. It is clear that the lien was assigned to Petitioner. In order for an assignee to be entitled to payment, it has the burden of showing that the assignor must have ceased doing business. There was no evidence presented that Express Case Pharmacy has ceased doing business. Therefore, the lien of Express Case Management was a prohibited assignment under Labor Code Section 4903.8(a). To argue that the law should not apply to it, is simply without merit.

Where the statutory language is clear and not ambiguous, there is no room for interpretation. DuBois v. Workers' Comp. Appeals Bd. (1993) 5 Cal.4th 382, 387. The WCJ applied the law as it existed at the time of the trial.

IV
RECOMMENDATION

It is respectfully recommended that Applicant's Petition for Reconsideration be denied in its entirety.

DATE: May 30, 2013



Jeffrey Bruflat
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

Service on:

ASPEN MEDICAL RESOURCES ANAHEIM, US Mail
ESIS CHATSWORTH, US Mail
EXPRESS CASE MANAGEMENT, US Mail
FOUNDATION MED GRP PICO RIVERA, US Mail
PINNACLE LIEN SERVICES, US Mail
UNLIMITED INTERPRETING WHITTIER, US Mail
WALL MCCORMICK SANTA ANA, US Mail

By: *Agatha Magana* DATE: 05.30.2013