

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

LEONEL LOPEZ, *Applicant*

vs.

**EDCO FLOOR COMPANY;
NORGUARD INSURANCE COMPANY, *Defendants***

Real Parties in Interest:

Frontline Medical Associates, Inc.,

**Adjudication Number: SAU7682215
Van Nuys District Office**

YOLANDA SABLAN, *Applicant*

vs.

**COUNTY OF LOS ANGELES;
ACCLAMATION SANTA CLARITA, *Defendants***

Real Parties in Interest:

**Marisa Schermbeck Nelson; South Bay Surgical Spine;
South Bay Surgical and Spine Institute; Accounts Receivable LTD;
Accounts Receivable Acquisitions; and Frontline Medical Associates, Inc.**

**Adjudication Number: SAU2545427
Van Nuys District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

The Workers' Compensation Appeals Board (Appeals Board) issued an Opinion and Order Granting Petition for Reconsideration¹ in these matters on January 5, 2022² to provide an opportunity to study further the legal and factual issues raised by the petition. This is our Opinion and Decision after Reconsideration.

Lien claimant Frontline Medical Associates, Inc. (Frontline) seeks reconsideration of the "Order Dismissing Liens from Consolidation, Order of Consolidation and Order Entering Lien Dismissals into the EAMS System Pursuant to Labor Code § 139.21(e)" (Order Dismissing),³ issued by a workers' compensation administrative law judge (WCJ) on August 6, 2021 and only in SAU7682215 (*Leonel Lopez v. Edco Floor Col, et al.*) [*Lopez*].

In pertinent part, the WCJ found that shareholder, partner, agent for service of process, and officer (president) of Frontline, Paul Turley, was suspended from participation in the workers' compensation system under Labor Code⁴ section 139.21, subdivision (a)(1)(A) (section 139.21(a)(1)(A)); that Turley was indicted and convicted of at least two felonies (insurance fraud and conspiracy to commit insurance fraud); and, that as part of Turley's plead deal, Turley agreed to the dismissal and forfeiture of workers' compensation liens filed and/or sought by Frontline pursuant to section 139.21, subdivision (e)(1) (section 139(e)(1)).⁵

In pertinent part, the WCJ vacated the December 20, 2018 order consolidating all Frontline liens into SAU2545427 (*Yolanda Sablan v. County of Los Angeles, et al.*) [*Sablan*]; ordered all Frontline liens consolidated into SAU7682215 (*Leonel Lopez v. Edco Floor Col, et al.*) [hereinafter referred to as *Lopez*] for adjudication and disposition pursuant to section 139.21(e);

¹ We previously issued a decision in *Sablan* on January 21, 2022. On January 5, 2022, Commissioner Razo and Deputy Commissioner Schmitz were assigned to the panel in *Lopez* that issued the Opinion and Order Granting Petition for Reconsideration. It was brought to the Appeals Board's attention that the order from which reconsideration was sought concerned consolidation and should have issued in both cases. The original panel in *Sablan* was then assigned to both cases. As Commissioner Lowe was on the original panel, but no longer serves on the Appeals Board, a new panelist was assigned in her place.

² We issued an Opinion and Order Correcting Clerical Error on February 18, 2022 adding SAU2545427 to the caption.

³ The WCJ ordered attorney Eric Danowitz to serve the Order Dismissing. Service was affected on August 20, 2021 in *Sablan* and August 23, 2021 in *Lopez*. (Notice of Signed Order, August 20, 2021; Service of Signed Order re SAU76282215, August 23, 2021.) The petition was therefore timely filed on September 1, 2021, i.e., within 20 days of the August 23, 2021 service of the Order Dismissing. (Lab. Code, § 5903.)

⁴ All further references are to the Labor Code unless otherwise noted.

⁵ The plea agreement included the dismissal and forfeiture of liens filed and sought by other entities that Turley "owned or controlled," but those liens are not at issue in this reconsideration sought by Frontline. (See "Petition for Issuance of an Order Dismissing Frontline Medical Associates, Inc. Liens Pursuant to Labor Code Section 139.21(e)(1)" [Petition for Order Dismissing], April 9, 2021, p. 92, Exh. H at Exh. A.)

ordered all Frontline liens newly consolidated into *Lopez* be “deemed...dismissed with prejudice by operation of law” pursuant to section 139.21(e), subdivision (1) (section 139.21(e)(1)); that all Frontline liens “be entered as dismissed” in the Electronic Adjudication Management System (EAMS); and, ordered attorney Eric Danowitz to serve a copy of the Order Dismissing on all parties of record.

Frontline contends that the Order Dismissing violates its right to due process pursuant to the Appeals’ Board’s prior holdings in *Yolanda Sablan v. County of Los Angeles* (2021) 86 Cal.Comp.Cases 524 [2021 Cal.Wrk.Comp. P.D. LEXIS 11] (*Sablan*), and *Villanueva v. Teva Foods* (2019) 84 Cal.Comp.Cases 198 [2019 Cal.Wrk.Comp. LEXIS 13] (*Villanueva*). Specifically, Frontline contends that as in *Sablan*, the WCJ is attempting to consolidate all Frontline liens pursuant to section 139.21(e) based on the conviction and suspension of Turley even though the Department of Industrial Relations (DIR) has yet to seek suspension of Frontline properly under section 139.21, subdivision (A)(1)(D); and, that prior to subjecting Frontline to the consolidation and presumption of fraud and dismissal under section 139.21(e), DIR must first ensure Frontline’s right to due process by actually suspending Frontline pursuant to the suspension procedures outlined in section 139.21 and AD Rules 9788.1 to 9788.6 (Cal. Code Regs., tit. 8, § 9788.1-9788.6).

Liaison counsel for the carriers in these matters filed a “Joint Carrier Answer to Lien Claimant Frontline Medical Associates, Inc.’s Petition for Reconsideration” (Answer). The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition for Reconsideration be denied.

We have reviewed the record in these matters, the allegations of the Petition for Reconsideration and the Answer, as well as the contents of the Report. It is our decision after reconsideration to rescind the Order Dismissing and return these matters to the trial level for further proceedings in *Sablan* and consistent with this decision.

FACTS

On April 18, 2018, Chief Judge of the Division of Workers’ Compensation, Paige S. Levy, issued an “Order of Consolidation, Designation of Master File, Order Staying Liens, and Notice of Hearing” (Consolidation Order), related to liens “filed by and on behalf of suspended provider

Marisa Schermbeck Nelson...,” and designated *Sablan* as the master file. (Consolidation Order, April 18, 2018, p. 1.)

Frontline was joined into the *Sablan* consolidated proceedings on August 22, 2018. (“Order Re: First Amended Order of Consolidation and Joinder Real Party in Interest Frontline Medical Associates, Inc.,” August 22, 2018.) Paul Turley is not a party to the *Sablan* consolidated proceedings.

On April 9, 2021, liaison counsel for the carriers filed a “Petition for Issuance of an Order Dismissing Frontline Medical Associates, Inc. Liens Pursuant to Labor Code Section 139.21(e)(1)” (Petition for Order Dismissing). (Petition for Order Dismissing, April 9, 2021.) The carriers’ sought dismissal of all Frontline liens based on the plea agreement entered into by Paul Turley:

Pursuant to Labor Code Section 139.21(e), “The following procedures apply for the adjudication of any liens of a physician, practitioner, or provider suspended pursuant to subparagraph (A) or (D) of paragraph (1) of subdivision (a), including any liens filed by or on behalf of the physician, practitioner, or provider or any entity controlled by the suspended physician, practitioner, or provider: (1) If the disposition of the criminal proceeding provides for or requires, whether by plea agreement or by judgment, dismissal of liens and forfeiture of sums claimed therein, as specified in the criminal disposition, all of those liens shall be deemed dismissed with prejudice by operation of law as of the effective date of the final disposition in the criminal proceeding, and orders notifying of those dismissals shall be entered by workers’ compensation judges.”

Turley was suspended by the Administrative Director on February 25, 2019. On February 26, 2021, as part of his plea agreement, Turley provided for the dismissal of liens and forfeiture of sums claimed therein for Frontline. As such, the liens of Frontline are deemed dismissed with prejudice by operation of law as of February 26, 2021. Pursuant to the procedure outline by Labor Code Section 139.21(e)(1), due to this disposition, an Order Dismissing those liens shall be entered by Workers’ Compensation Judges to notify all parties of the dismissal. In the present, all liens of Frontline are currently consolidated before Judge Skelly, and as such, the Order Dismissing shall be issued by Judge Skelly, so as to notify all parties of the dismissal of the Frontline liens. (*Id.*, p. 3, emphasis added.)⁶

⁶ The carriers also objected to the standing of Frontline in these proceedings given that it was, at that point in time, a Franchise Tax Board suspended corporation. (Petition for Order Dismissing, pp. 3-4.) The WCJ gave Frontline the opportunity to cure the suspension. (Minutes of Hearing and Summary of Evidence (MOH), April 26, 2021, p. 4.) Frontline filed a revivor certificate with its response to the Petition for Order Dismissing. (“Lien Claimant Frontline

Attached as Exhibit H to the carriers' Petition for Order Dismissing is a February 26, 2021 San Diego Superior Court Plea of Guilty/No Contest - Felony (Turley Plea), in *People v. Paul Turley* (SCD276470). Turley and the prosecutor executed the Turley Plea. (*Id.*, p. 3 of the Turley Plea.) The Superior Court Judge did not. (*Id.*, p. 4.) Turley plead guilty to two felony counts for violation of Labor Code section 3215⁷ and Penal Code section 550, subdivision (b)(3)⁸. (*Id.*, p. 1 of the Turley Plea.) The following statement was attached as Exhibit A to the Turley Plea:

Paul Turley was President of Frontline Medical Associates and associated with Firstline Health, a company that billed insurance companies for providing services for workmen's compensation patients for such things as pain management treatments, medications, compound creams and other related services. Paul Turley offered to pay and did pay kickbacks to physicians for the referral of patients for pain management treatments, the prescription of medications and compound creams. In doing so Paul Turley conspired with others to conceal from insurers that bribes were being paid which rendered the claims unpayable under California law. The above facts were in violation of California Penal Code Section 550(b)(3) and Labor Code Section 3215. (*Id.*, Exh. A.)

A Change of Plea Form Addendum (Addendum) was added to the Turley Plea which was signed by Turley's attorney and the prosecutor. (*Id.*, pp. 6-7 of the Turley Plea.) The Addendum was not signed by the Superior Court judge. (*Ibid.*) The Addendum stated:

Pursuant to Labor Code 139.21(e)(1), *and to the extent [it] is within his power to do so*, he Defendant Paul Turley agrees to the dismissal of all liens, forfeiture of sums claimed, and waiver of any right to seek collection of sums claimed in such liens in the California Workers' Compensation System, by Frontline Medical Associates, Firstline Health or by any clinic, group or corporations which Defendant Paul Turley owned or controlled, as any such liens arise from or are connected to fraud. (*Id.*, p. 6 of the Turley Plea, emphasis added.)

Medical Associates, Inc.'s Opposition to Carrier's Petition for Issuance of An Order Dismissing Its Liens Pursuant to Labor Code Section 139.21(e)(1)," June 15, 2021, Exh. A.)

⁷ "Except as otherwise permitted by law, any person acting individually or through his or her employees or agents, who offers, delivers, receives, or accepts any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring clients or patients to perform or obtain services or benefits pursuant to this division, is guilty of a crime." (Lab. Code, § 3215.)

⁸ "(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following: ¶(3) Conceal, or knowingly fail to disclose the occurrence of, an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled." (Pen. Code, § 550(b)(3).)

Marisa Schermbeck Nelson was not a defendant in *People v. Paul Turley* (SCD276470), and her name does not appear in the Turley Plea.

On April 26, 2021, various matters went to hearing. (MOH, April 26, 2021.) The WCJ deferred action on the Petition for Order Dismissing pending the filing of a revivor of its FTB suspension by Frontline and thereafter, responsive pleadings from Frontline. (*Id.*, p. 4.)

On June 15, 2021, Frontline filed “Lien Claimant Frontline Medical Associates, Inc.’s Opposition to Carrier’s Petition for Issuance of An Order Dismissing Its Liens Pursuant to Labor Code Section 139.21(e)(1)” (Frontline’s Response). (Frontline’s Response, June 15, 2021.) Frontline responded, in pertinent part:

The Carriers’ petition seeks erroneously to dismiss liens due to the conviction of one Paul Turley (“Turley”), an individual who did not provide medical services to Frontline’s patients *and is not a party to these proceedings*. The Carriers do not explain what authority exists to summarily adjudicate Frontline’s liens. The Carriers appear to be inviting an unconstitutional application of Labor Code section 139.21 and a violation of the WCAB’s Orders. In addition, *Frontline and its counsel are unaware of any consolidation proceeding involving Turley*. As the WCAB explained, there must first be proceedings convened with notice and opportunity for hearing before any action may be taken to affect the rights of a lien claimant. Here, the lack of any administrative suspension proceeding against Turley and Frontline precludes any adverse action against Frontline’s liens, including, most particularly, summary dismissal.

For the record, Turley’s 2021 alleged concession about forfeiting liens is in no way binding on Frontline. There is no evidence that he controls Frontline or may speak for it. He has not been associated with Frontline for many years and Frontline was not a party to the criminal proceeding involving Turley. His plea seems like a contrived ploy at the urging of insurance carriers to try to gain an unfair advantage over Frontline. *Without a showing that Turley “has the power to” forfeit Frontline’s liens, as the plea requires expressly, it is not binding on Frontline.* (*Id.*, pp. 3, emphasis added.)

On August 6, 2021, and without an evidentiary hearing, the WCJ issued the Order Dismissing. Because there was no evidentiary hearing on the carriers’ petition, there are no minutes of hearing or summary of evidence. The WCJ did not include an opinion on decision with the Order Dismissing, but does explain the Order Dismissing in the Report:

The order is also an order recognizing the dismissal of liens that occurred by operation of law in the disposition of a criminal matter. LC § 139.21(e) (1) requires the WCAB to recognize the action taken in the criminal proceedings

and the dismissed status of the liens. *LC § 139.21 (e)(1) does not give authority to the WCAB to dismiss the liens only to deem those liens dismissed by operation of law and orders notifying of those dismissals shall be entered by workers' compensation judges.* Orders notifying dismissals of the liens is accomplished by issuance of an order to enter that status into the EAMS system as was done here. *The order issued is not an order of dismissal. It is a procedural order, it is not a final order subject to reconsideration.*⁹

...

The liens of Frontline in this matter have been disposed of in a criminal disposition [and] therefore the Appeals Board's Decision After Removal in Sablan is not applicable

...

The order issued by this WCJ consolidated the liens under LC § 139.21(e) in order to accomplish the requirement of LC § 139.21(e) (1). In hind sight it would have been more appropriate to have consolidated the liens under Reg. § 10396 in order to apply the requirements of LC § 139.21(e) (1).

...

This case, Lopez, (SAU7682215), was created and designated as the master file solely to address the efficiencies discussed above. The Frontline liens were bifurcated from the Sablan, (SAU2545427), matter because *bifurcation and consolidation of the liens into a different SAU master file did not contravene the Appeals Board's Decision after Removal in Sablan and removing the liens from the Sablan consolidation seemed to be reasonable to allow the issues here to be dealt with by utilizing judicial resources efficiently and independently of Sablan.*

...

The Order was not issued without jurisdiction and in excess of the WCJ's powers because *the liens here are not subject to a special lien proceeding under LC § 139.21(e) (2) as interpreted by the Sablan, (SAU2545427), Decision after Removal, and a proper delegation of authority to take action on the liens was made by the Chief Judge to this WCJ.* Consolidation of the liens into Lopez, (SAU7682215), as the master case file is a reasonable decision allowing the EAMS system to handle multiple liens at one time. Reconsideration of the order of consolidation should be denied.

...

⁹ We disagree. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1074-1076 [65 Cal.Comp.Cases 650] [interim orders involving a threshold issue may be subject to reconsideration including orders dismissing].) Moreover, given our disposition in these matters, the Order Dismissing constitutes a final order affecting the rights and liabilities of the parties herein. (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180 [260 Cal.Rptr. 76] quoting *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661, 665].)

Here the statement made by Turley under oath in the plea agreement of his relationship to Frontline wherein he stated he was that he was the president of Frontline is supported by the documents submitted by Defendants in their petition for dismissal. The documents are copies of documents submitted to a state or other government agency and appear to be in order, and thus would be admissible in workers' compensation proceedings. There are no indications that the weight to be given to the documents should be discounted...[O]ther than the Certificate of Revivor [Frontline] submitted no evidence to support their arguments. There are no indications that the documents submitted by Carriers are not accurate or should otherwise be excluded.

...

There is no evidence to contradict Turley's statement and agreement to dismiss liens. The criminal plea agreement is sufficient to bring the liens of Frontline within the procedure outlined in LC § 139.21(e) (1). As noted, Frontline is not subject to a Special Lien Proceeding pursuant to LC §139.21(e) (2) having not been suspended, but that doesn't mean they aren't subject to having their liens recognized as dismissed as part of the resolution of criminal proceedings. Turley's statement in the criminal case that he was the president of Frontline is supported by the documents submitted by Carriers.

...

*LC § 139.21(e) (1) states the procedure applies to a provider suspended by the AD. Turley was suspended by the AD, and in the disposition of the criminal charges filed against him, by plea agreement, agreed to dismiss all Frontline liens. LC § 139.21(e) (1) leaves no discretion to the WCAB regarding the liens of Frontline. The liens "shall be deemed dismissed with prejudice by operation of law, and orders notifying of those dismissals shall be entered by worker' compensation judges". This is what happened here. The dismissed status of the Frontline liens was ordered entered into EAMS as required by statute. *Contrary to the claims of Frontline this action is not without jurisdiction and in excess of the WCJ's powers, it is instead expressly required by statute. (Id., pp. 4-9, emphasis added.)**

Frontline sought timely reconsideration contending that the Order Dismissing violates its right to due process pursuant to the Appeals' Board's prior holdings in *Sablan* and *Villanueva*. Specifically, Frontline contends that as in *Sablan*, the WCJ is attempting to consolidate all Frontline liens pursuant to section 139.21(e) based on the conviction and suspension of Turley even though the Department of Industrial Relations (DIR) has yet to seek suspension of Frontline properly under section 139.21, subdivision (A)(1)(D); and, that prior to subjecting Frontline to the consolidation and presumption of fraud and dismissal under section 139.21(e), DIR must first ensure Frontline's right to due process by actually suspending Frontline pursuant to the suspension

procedures outlined in section 139.21 and AD Rules 9788.1 to 9788.6 (Cal. Code Regs., tit. 8, § 9788.1-9788.6).

DISCUSSION

We believe that the Order Dismissing was issued in error. The *Sablan* consolidation proceedings involve the suspended provider Marisa Schermbeck Nelson –not Paul Turley. The WCJ does not therefore have jurisdiction over Paul Turley as a result of the *Sablan* consolidated proceedings. We will therefore rescind the Order Dismissing in its entirety, and return this matter to the trial level for further proceedings including, but not limited to dismissal of the *Lopez* SAU matter.

In addition, this matter also presents the Appeals Board with a question of first impression regarding when and how a WCJ can dismiss a lien based on a criminal disposition requiring the dismissal and forfeiture of liens. (Lab. Code, § 139.21(e)(1).) Section 139.21 states:

*(e) The following procedures apply for the adjudication of any liens of a physician, practitioner, or provider **suspended** pursuant to subparagraph (A) or (D) of paragraph (1) of subdivision (a), including any liens filed by or on behalf of the physician, practitioner, or provider or any entity controlled by the suspended physician, practitioner, or provider:*

*(1) If the disposition of the criminal proceeding provides for or requires, whether by plea agreement or by judgment, dismissal of liens and forfeiture of sums claimed therein, as **specified** in the criminal disposition, all of those liens shall be deemed dismissed with prejudice by operation of law as of the effective date of the final disposition in the criminal proceeding, and orders notifying of those dismissals shall be entered by workers' compensation judges.*

(2) All liens that have not been dismissed in accordance with paragraph (1) and remain pending in any workers' compensation case in any district office within the state shall be consolidated and adjudicated in a special lien proceeding as described in subdivisions (f) to (i), inclusive.

(f) After notice of suspension, pursuant to subdivision (d), and if subdivision (e) applies, the administrative director shall appoint a special lien proceeding attorney, who shall be an attorney employed by the division or by the department. The special lien proceeding attorney shall, based on the information that is available, identify liens subject to disposition pursuant to subdivision (e), and workers' compensation cases in which those liens are pending, and shall notify the chief judge regarding those liens. Based on this information, the chief

judge or his or her designee shall identify a district office for a consolidated special lien proceeding to adjudicate those liens, and shall appoint a workers' compensation judge to preside over that proceeding. (Cal Lab Code § 139.21(e)-(f), emphasis added.)

Thus, under section 139.21(e)(1), where a criminal disposition requires lien dismissal and forfeiture, section 139.21(e)(1) would require the dismissal with prejudice of all liens “*specified in the criminal disposition,*” i.e., as a matter of procedure as suggested by the WCJ. (Lab. Code, § 139.21(e)(1), emphasis added.) Given that the consolidated proceedings under section 139.21(f) are only for those liens *not* dismissed pursuant to section 139.21(e)(1), we tend to agree with the WCJ that a consolidation of liens under WCAB Rule 10396 (Cal. Code Regs., tit. 8, § 10396), could be a proper vehicle to issue the required notice of dismissal of the specified liens.

However, no proceedings under section 139.21(e) – either to dismiss liens pursuant to a criminal disposition or to consolidate liens for a special lien proceeding – can proceed until a provider has been properly *suspended*, and “no final order of suspension can issue without the fulfillment of the procedural safeguards in section 139.21 and Rules 9788.1 to 9788.6.” (*Sablan, supra*, 86 Cal.Comp.Cases at p. 547.) Here, the WCJ states that Paul Turley has been suspended under section 139.21. Although it could be that Paul Turley has been suspended under section 139.21, we find no evidence of it in the record of these matters.

Moreover, the Turley Plea calls for the “dismissal of all liens, forfeiture of sums claimed, and waiver of any right to seek collection of sums claimed in such liens...by Frontline...,” *but only “to the extent [it] is within his [Turley’s] power to do so...”* (Turley Plea, pp. 6-7, emphasis added.) Thus, the Turley Plea did not actually specify which liens are to be dismissed, but instead made dismissal *contingent* on whether Paul Turley had the “power” to agree to dismiss and/or forfeit any given lien. Thus, even if we were to assume *arguendo* for purposes of this decision that Paul Turley is a suspended provider, it would not be possible to dismiss “as a matter of law” any or all Frontline liens “specified in the criminal disposition” under section 139.21(e)(1), because the only Frontline liens “specified in the criminal disposition” were those that Paul Turley had the “power” to dismiss.

It is a longstanding principle that all parties to workers' compensation proceedings retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157–158 [65 Cal.Comp.Cases 805]; see *Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 461–

462 [the right to adjudicate lien claims is protected by both California state and Federal rights to due process].) 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.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at 157–158; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) Consequently, should Paul Turley be properly suspended under section 139.21, an evidentiary hearing would be necessary to determine which workers' compensation liens Paul Turley had the power to dismiss and/or forfeit.

We caution the WCJ and the parties that no such evidentiary hearing could be held in the *Sablan* consolidated proceedings, but could only be held in a separate, consolidated proceeding instituted against Paul Turley *after* he has been suspended. Again, and because special lien proceedings under section 139.21(e)(2) and (f) apply only to liens *not* dismissed under section 139.21(e)(1), a consolidation of liens under WCAB Rule 10396 could be proper to determine which liens are to be dismissed under the Paul Turley criminal disposition and which are not (the latter then being subject to special lien proceedings).

Accordingly, it is our decision after reconsideration to rescind the Order Dismissing in its entirety, and to return this matter to the trial level for further proceedings consistent with this decision, which includes but is not limited to dismissal of *Lopez*.

For the foregoing reasons,

IT IS ORDERED as the Decision after Reconsideration of the Workers' Compensation Appeals Board that the "Order Dismissing Liens from Consolidation, Order of Consolidation and Order Entering Lien Dismissals into the EAMS System Pursuant to Labor Code § 139.21(e)," issued by a workers' compensation administrative law judge on August 6, 2021 is **RESCINDED** in its entirety and **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 16, 2023

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

AJF/abs

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

SERVICE LIST

**LEONEL LOPEZ
YOLANDA SABLAN
FRONTLINE MEDICAL ASSOCIATES, INC.
LAW OFFICES OF GEORGE SHOHE
MOKRI, VANIS & JONES
MARISSA SCHERMBECK NELSON (5)
SOUTH BAY SURGICAL AND SPINE INSTITUTE
ACCOUNTS RECEIVABLE, LTD.
ACCOUNTS RECEIVABLE ACQUISITION
DIR/ANTI-FRAUD UNIT (OAKLAND)
COUNTY OF LOS ANGELES**