

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

BRIAN DUARTE

Applicant,

vs.

Defendants,

ALL ABOUT PAINT; S.C.I.F.

TRUCARE PHARMACY

Lien Claimant.

Designated Case No(s):SAU10030321

**ORDER OF CONSOLIDATION,
DESIGNATION OF MASTER FILE,
AND NOTICE OF HEARING**

The undersigned Presiding Judge of the Special Adjudication Unit , pursuant to delegated authority by the Chief Judge of the Division of Workers' Compensation, has become aware that there are currently proceedings pending in multiple individual workers' compensation cases, and in several different DWC District Offices, involving the same lien claimant, namely TruCare Pharmacy, (hereinafter "TruCare") and involving the same issues of fact and law, namely whether liens filed by lien claimant TruCare fall within the provisions of Labor Code 4615 such that a stay of the liens is required.

Section 10589 of title 8 of the California Code of Regulations provides for the consolidation of related cases when there are common issues of fact or law, to avoid duplicate or inconsistent orders, and for the efficient utilization of judicial resources. Section 10589 applies to cases in which the common issues of law or fact involve the same lien claimant, and consolidation of proceedings for purposes of adjudicating common issues involving the same lien claimant is a standard and usual procedure within the workers' compensation system. (See, e.g., Cal. Code Regs., tit, 8, § 10301, subd. (aa), [defining "Lien conference" under the Rules of Practice and Procedure as "a proceeding, including a proceeding following an order of

consolidation, held in accordance with section 10770.1 for the purpose of assisting the parties in resolving disputed lien claims], emphasis added.)

The undersigned finds and determines that there are common issues of fact and law in the identified cases concerning whether the liens of TruCare fall within the provisions of Labor Code section 4615 such that a stay of the liens is required. The factual and legal issues presented are complex, including with respect to the ownership and control of lien claimant TruCare the nature of the underlying criminal proceedings against Mina Kolta, and the alleged relationship between Mina Kolta and lien claimant TruCare. It is further found that the consolidation of these matters herein pursuant to Section 10589 will provide a means for lien claimant to have an opportunity to be heard within the usual WCAB adjudication procedures and benefit the parties by avoiding duplicate or inconsistent orders on similar issues, and will further the efficient utilization of judicial resources. Accordingly, pursuant to Section 10589, the liens of TruCare filed in those cases listed in Attachment "A" are ordered consolidated for purposes of the adjudication and resolution of the issue of whether the liens of TruCare fall within the provisions of Labor Code 4615 such that a stay of the liens is required. The purpose of the consolidation hearing is to prevent the erroneous application of Labor Code § 4615 and not for disputing whether a lien arises from the alleged conduct giving rise to the criminal charges, or for adjudication on the merits of any liens filed by TruCare.

The undersigned is further aware that several other cases involving TruCare have previously either been tried in various district offices and/or taken under submission. Lien claimant TruCare shall advise the assigned consolidation judge as to those cases no later than at the time of the first scheduled hearing. Those cases shall be excluded from this consolidation proceeding.

The above-captioned case is hereby ordered designated as the master file. The parties are ordered to use only the designated case number when referencing the consolidated matter.

Judge Elliot Borska at the Marina Del Rey district office is designated as the assigned judge for purposes of this consolidation. All documents regarding this consolidation

shall be filed either by JET, e-filing or at the Marina Del Rey district office, unless otherwise ordered. If it is later determined that additional matters should be included in this consolidation an additional order shall issue.

This case is set for status conference on June 12, 2019 at 10:30 AM in front of Judge Elliot Borska, 4720 Lincoln Blvd., Marina Del Rey CA 90292.


At that time Judge Borska will confer with the parties concerning the identification of issues to be resolved, the evidence, and the procedures that will be followed in the consolidated proceeding. The parties will and shall have the opportunity in the consolidated proceeding to present all evidence, testimony, briefing and argument they would otherwise have had the right to present in any of the individual cases, according to usual WCAB adjudication procedures, regarding the applicability of the provisions of Section 4615. Subject to the foregoing orders assigned Judge Borska shall have the authority to make all orders as necessary and appropriate in the consolidated proceeding.

Lien Claimant TruCare is to give notice to all necessary parties of this order and the upcoming status conference.

IT IS SO ORDERED.

Dated:

4/16/19



WILLIAM E. GUNN

Presiding Workers Compensation Judge

PROOF OF SERVICE BY MAIL

Los Angeles COUNTY

STATE OF CALIFORNIA

I, Valerie Reyes declare:

I am a citizen of the United States, a resident of Los Angeles County, and am over 18 years of age. I am not a party to the within – entitled action. My business/residence address is:

6150 Van Nuys Blvd. Ste. 215

Van Nuys, California. 91401

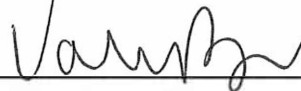
I served a copy of the attached **ORDER OF CONSOLIDATION, DESIGNATION OF MASTER FILE, AND NOTICE OF HEARING** in this action by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Van Nuys, California, addressed as follows:

Department of Industrial Relations
Office of the Director – Anti-Fraud Unit
1515 Clay St., Ste. 701
Oakland, CA. 94612

TruCare Pharmacy
1875 California Ave.
Corona, CA. 92881

I declare, under penalty of perjury, that the foregoing is true and correct.

Date: 04/16/2019



Signature of Declarant

Valerie Reyes

Type or Print Full Name of Declarant