

TABLE OF CASES: 5814/4650(d)

1. Abney v. Aera Energy/Liberty Mutual Ins. Co.(2004) 69 CCC 1552(W.C.A.B. en banc)
2. American Civil Constructors/Zurich American Ins., v. W.C.A.B.(2004) 69 CCC 1018(writ denied, no reasonable basis for petition) No 5814 penalty for alleged delay in paying medical benefits/expenses when there was an express stipulation to exclude these benefits/expenses from any third party credit.
3. American Home Assurance/AIG v. W.C.A.B.(Pacey)(2004) 69 CCC 378(writ denied) L.C. 5814 penalty found when defendant unreasonably terminated applicant's VR benefits. Defendant's offer of alternative work was invalid and defendant repeatedly failed to respond to applicant's attempt to respond to the invalid offer.
4. Belton v. W.C.A.B.(2004) 69 CCC 1091 (writ denied) No 5814 penalty imposed on TTD, PPD, and medical treatment benefits related to a denied CT injury where defendant had genuine doubt based on a potential statute of limitations defense and applicant's lack of credibility.
5. Blades v. W.C.A.B.(2004) 69 CCC 1021(writ denied) No 5814 penalty for alleged failure to pay TTD benefits for failure to timely deny claim within 90 days. L.C. 5814 is premised on an unreasonable delay in the payment of benefits not on a failure to timely deny the injury.
6. Brisco v. W.C.A.B.(2004) 69 CCC 610(writ denied) No 5814 penalty found based on an alleged delay in paying PPD when defendant took credit of TTD against PPD. Indemnity paid by defendant was greater than the award.
7. Carrows Restaurants v. W.C.A.B.(Chatfield)(2004) 69 CCC 436(writ denied, no reasonable basis for petition) L.C. penalty found for unreasonable denial of medical treatment by defendant on entire species of medical treatment benefits. Defendant failed to timely

authorize moving a prescribed hospital style bed to applicant's new residence.

8. Chavez v. W.C.A.B.(2004) 69 CCC 503(writ denied) Applicant awarded 5814 penalty for late payment of attorney's fees, but only on the amount actually delayed. Applicant's attorney contended the penalty should have been calculated and assessed against entire PPD award or alternatively, against the entire species of attorney's fees. WCJ sanctioned applicant's attorney for frivolous actions under 5813.

WCAB upheld the 5814 penalty as calculated by the WCJ but rescinded the sanctions.

9. City of Los Angeles v. W.C.A.B.(Lewis) 69 CCC 1157(writ denied) Attempted rescission by defendant of an \$84,500.00 approved C&R resolving penalty claims.

10. Consolidated Freightways Inc., v. W.C.A.B.(Escalona)(2004) 69 CCC 533(writ denied, no reasonable basis for petition) Four separate 5814 penalties imposed for defendant's unreasonable delay in providing medical treatment. Defendant failed to timely pay a wheelchair bill, travel expenses to medical appointments, and reasonable attendant care.

11. County of Los Angeles v. Batt(2004) 69 CCC 162 (writ denied) L.C. 5814 penalty imposed for defendant's failure to pay a 10/30/01 Award until 12/3/01. Defendant failed to put on any evidence to excuse the delay.

12. Federal Express v. W.C.A.B.(Rozek)(2004) 69 CCC 393(writ denied) L.C. 5814 penalty imposed related to defendant's unreasonable delay in providing medical treatment.

13. Frisella v. W.C.A.B.(2004) 69 CCC 401(writ denied) Two separate 5814 penalties imposed for failure to pay TTD benefits and failure to pay a 4650(d) penalty on a period of retroactive TTD pursuant to Moulton 65 CCC1259. However, both penalties should be computed/calculated separately by increasing TTD rate twice and not by compounding second penalty on first penalty since there was no prior penalty award on TTD.

14. Garden Grove Unified School District v. W.C.A.B.(Cervantes)(2004) 69 CCC 280(writ denied, no reasonable basis for petition) Multiple/separate 5814 penalties imposed on TTD(no legal or medical basis to terminate), medical treatment(failure to provide), and PPD(failure to advance). In addition a \$500.00 sanction was imposed for defendant's failure to pay TTD without any medical or legal justification.

15. Kelly Traylor v. W.C.A.B.(2004) 69 CCC 321(writ denied) No 5814 penalty for alleged delay in providing medical treatment.

16. Lake County Vector Control Dist., v. W.C.A.B.(2004) 69 CCC 63(not certified for publication) No 5814 penalty for alleged unreasonable delay in providing medical treatment for alleged failure to authorize CT myelogram. There was no evidence that a request for authorization had ever been sent to defendant prior to the date of actual authorization.

17. Leinon v. Fisherman's Grotto/Mid-Century Ins. Co. (2004) 69 CCC 995(W.C.A.B. en banc)(Leinon I)

18. Leinon v. Fisherman's Grotto/Mid-Century Ins. Co. (2004) 69 CCC 1449 (W.C.A.B. en banc) (Leinon II)

19. Messinese v. SCIF(2004)69 CCC 480(significant panel decision) No 5814 penalty or sanctions where defendant withheld and paid to a County applicant's TTD benefits pursuant to a Superior Court Order. Also defendant's liability for TTD benefits may be credited/reduced based on these payments, to be adjusted by the parties.

20. National Plant Services, Ace USA/ESIS v. W.C.A.B.(Trujillo)(2004) 69 CCC 315(writ denied)

21. Norris v. W.C.A.B.(2004) 69 CCC 34(writ denied) No 5814 penalty for 27 day delay in paying permanent disability. Defendant put on considerable evidence as to the reason for the delay

22. Southern California Edison v. W.C.A.B.(2004) 69 CCC 142(writ denied) L.C. 5814 penalty imposed for unreasonable delay in paying an Award of TTD and attorney's fees.

23. Staples v. W.C.A.B.(2004) 69 CCC 1067(writ denied)
No 5814 penalty based on alleged failure to pay attorney's fees pursuant to a stipulated award. The stipulated award expressly provided that the credit that defendant was entitled to must be exhausted before any attorney's fees were to be paid.

24. Stieglitz v. W.C.A.B.(2004) 69 CCC 52(writ denied) No L.C. 5814 penalty for alleged unreasonable delay in payment of a stipulated award. The stipulated award was so poorly drafted and the terms so ambiguous it was determined to be unenforceable.

25. The May Dept. Stores/Robinsons' May v. W.C.A.B.(Mata)(2004) 69 CCC 1100. L.C. 5814 penalty imposed based on defendant's unreasonable delay in paying TTD while applicant was hospitalized for low back surgery.

26. Thomas v. W.C.A.B.(2004) 69 CCC 545(writ denied) No 5814 penalty for an alleged unreasonable delay in paying medical treatment expenses under a stipulated Award.

27. Turner v. W.C.A.B.(2004) 69 CCC 1478(writ denied) No 5814 multiple penalties for defendant's alleged delay in paying medical mileage totaling \$19.46. Applicant's medical treatment benefits amounted to \$170,000.00. Held that any penalty award would be grossly disproportionate to the amount delayed. Also, the amount of the delay itself was characterized as de minimus.

28. Universal Sodexo v. W.C.A.B.(Sullivan)(2004) 69 CCC 1081(writ denied) Single L.C. 5814 penalty imposed when defendant paid applicant substantially below is correct TTD rate and then failed to pay retroactive TTD benefits at the correct rate for almost a year.

29. Zurich American Insurance Company et.al., v. W.C.A.B.(2004) 69 CCC 181(writ denied, no reasonable basis for petition) L.C. 5814

penalty imposed for defendant's failure to make adequate PPD
advances in light of the medical record