

1 **WORKERS' COMPENSATION APPEALS BOARD**

2 **STATE OF CALIFORNIA**

3 **Case No. RIV 0055831**

4 **THOMAS MESSINESE,**

5 *Applicant,*

6 **vs.**

7 **AUTOMATIC HEATING; and STATE**  
8 **COMPENSATION INSURANCE FUND,**

9 *Defendant(s).*

10 **OPINION AND DECISION**  
11 **AFTER RECONSIDERATION**

12 Previously, we granted reconsideration to further study the facts and law in this matter. We  
13 now issue our Opinion and Decision After Reconsideration.

14 On January 6, 2004, the workers' compensation administrative law judge ("WCJ") issued a  
15 Findings and Order relating to an Order/Notice to Withhold Income for Child Support ("earnings  
16 assignment order") issued by the San Bernardino County Department of Child Support Services  
17 ("County" or "County Child Support Services"). This earnings assignment order had directed  
18 defendant, State Compensation Insurance Fund ("SCIF"): (1) to withhold both \$69.00 per month  
19 for current child support and \$280.00 per month for past due child support from the temporary  
20 disability indemnity payable to applicant, Thomas Messinese ("applicant"); and (2) to pay this  
21 withheld indemnity to County Child Support Services.<sup>1</sup> In essence, the WCJ's January 6, 2004  
22 decision determined that, to the extent the County's earnings assignment order required SCIF to  
23 assign \$280.00 per month of applicant's temporary disability indemnity to the County for  
24 *pre-injury* child support arrearages, the order was invalid because the assignment had not been  
25 approved by the Workers' Compensation Appeals Board ("WCAB") and because the assignment  
26 constituted a lien for pre-injury living expenses, in violation of Labor Code section 4903 (c) and

27 <sup>1</sup> Strictly speaking, the earnings assignment order directed SCIF to deduct a total of \$349.00 per month from applicant's "earnings;" however, temporary disability indemnity constitutes "earnings" for purposes of an earnings assignment order for support. (See Family Code, §5206(d).)

1 (e). The WCJ's decision further ordered SCIF, which had complied with the earnings assignment  
2 order, to "reimburse" applicant for temporary disability benefits it had made to the County, and it  
3 ordered SCIF to pay Labor Code section 4650(d) penalties against that temporary disability  
4 indemnity. Finally, the WCJ's Opinion on Decision stated that, based on Labor Code section  
5 4902, SCIF would not receive credit for the \$280.00 per month in temporary disability indemnity  
6 it had paid to County Child Support Services.

7 On January 23, 2004, the County filed a timely petition for reconsideration, contending  
8 among other things: (1) the WCJ erred in adjudicating the validity of the earnings assignment  
9 order, because applicant had not followed the statutorily prescribed procedure set forth in Family  
10 Code section 5246(e) for challenging such an order in Superior Court; (2) Family Code section  
11 5246 and Code of Civil Procedure section 704.160 allow a local child support agency to issue an  
12 earnings assignment order without a hearing and without judicial approval; (3) the WCJ erred in  
13 failing to consider the public policies underlying Family Code section 5246 and Code of Civil  
14 Procedure section 704.160; and (4) the WCJ's decision violated a January 11, 1993 internal  
15 memorandum regarding child support orders issued by the Administrative Director of the Division  
16 of Workers' Compensation.

17 On January 30, 2004, SCIF filed a timely petition for reconsideration, contending among  
18 other things: (1) the WCAB is a tribunal of limited jurisdiction and it cannot override a valid  
19 earnings assignment order issued by County Child Support Services; (2) the WCJ ignored the  
20 Administrative Director's January 11, 1993 memorandum regarding child support orders; and  
21 (3) no Labor Code section 4650(d) penalty should have been assessed against SCIF for its  
22 compliance with the County Child Support Services' lawful order and its compliance with the  
23 guidelines established by the Administrative Director.

24 Applicant filed an answer to the two petitions for reconsideration. In addition, the WCJ  
25 has prepared a Report and Recommendation ("Report") on the petitions, recommending that they  
26 be denied.  
27

1 For the reasons that follow, we conclude: (1) that, pursuant to Family Code section 5246  
2 and Code of Civil Procedure section 704.160, the County properly issued an earnings assignment  
3 order directing SCIF to withhold both \$69.00 per month for current child support and \$280.00 per  
4 month for past due child support from applicant's temporary disability indemnity, and to pay this  
5 withheld indemnity to County Child Support Services, even though this order included *pre-injury*  
6 child support arrearages; (2) that the County was not required either to obtain prior WCAB  
7 approval or to follow the lien procedures of the Labor Code before issuing this earnings  
8 assignment order; (3) that an earnings assignment order is a valid and enforceable even if the order  
9 is not signed by a judicial officer; and (4) that, therefore, SCIF is not liable for Labor Code section  
10 4650(d) penalties against the temporary disability indemnity payments it properly made to the  
11 County pursuant to the earnings assignment order, and SCIF's liability for temporary disability  
12 indemnity will be reduced by the amount of these payments.

### 13 **I. BACKGROUND**

14 From the documents in the WCAB's record, the relevant history appears to be as follows.<sup>2</sup>

15 Applicant sustained an admitted industrial injury on April 14, 2003, while employed by  
16 Automatic Heating, which was then insured by SCIF. SCIF began paying temporary disability  
17 indemnity to applicant effective April 15, 2003.

18 Prior to his industrial injury, applicant had been married and had two children, but the  
19 marriage dissolved. It appears that, following the dissolution of the marriage, but still prior to the  
20 industrial injury, applicant was judicially ordered to pay child support; however, he fell in arrears.

21 On July 22, 2003, following applicant's industrial injury, the Superior Court issued a new  
22 child support order requiring him to pay \$69.00 per month in child support, retroactive to May 6,  
23 2003. This order did not specifically address the issue of applicant's arrearages, but it did state  
24 that the County was "authorized to engage in continued or additional collection."

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26  
27 <sup>2</sup> This matter was submitted for decision on the parties' points and authorities and the documents  
appended thereto.

1           On August 18, 2003, County Child Support Services sent SCIF the earnings assignment  
2 order at issue here. The earnings assignment order directed SCIF to deduct \$69.00 per month from  
3 applicant's temporary disability indemnity for current support and \$280.00 per month for past due  
4 support (i.e., a total of \$349.00 per month), and to pay this money to the County. The earnings  
5 assignment order was not signed by any judicial officer. A copy of the earnings assignment order  
6 was served on applicant, together with a "Request for Hearing Regarding Earnings Assignment"  
7 form, notifying him that, if he objected to the Child Support Order/Notice, he could request a  
8 hearing before the Superior Court.

9           In compliance with the earnings assignment order, SCIF began deducting \$349.00 per  
10 month from applicant's temporary disability indemnity, which was less than 25-percent of his  
11 temporary disability rate of \$400.00 per week.

12           Applicant did not file the "Request for Hearing Regarding Earnings Assignment" form  
13 with the Superior Court. Instead, he filed a declaration of readiness with the WCAB requesting an  
14 expedited hearing on the issue of SCIF's deduction of \$349.00 per month from his temporary  
15 disability indemnity checks, which applicant alleged was in "[v]iolation of [the] court order to pay  
16 child support in the amount of \$69.00 per month." Applicant sought penalties against SCIF under  
17 Labor Code sections 4650(d) and 5814, plus sanctions and attorney's fees under Labor Code  
18 section 5813.

19           On October 21, 2003, the expedited hearing took place, leading to the WCJ's January 6,  
20 2004 decision.

## 21 **II. DISCUSSION**

22           In general, the WCAB has exclusive original jurisdiction over matters relating to workers'  
23 compensation benefits. (Lab. Code, §§5300 [particularly, (a) & (c)], 5301.) Also, in general, all  
24 compensation "shall be paid directly to the claimant entitled thereto unless otherwise ordered by  
25 the [WCAB]" (Lab. Code, §4902), "[n]o claim for compensation ... is assignable before payment"  
26 (Lab. Code, §4900), and "[n]o claim for compensation ... is subject to be taken for the debts of the  
27

1 party entitled to such compensation except as ... provided [by the Labor Code].” (Lab. Code,  
2 §4901.)

3 Accordingly, *in its proceedings*, the WCAB may allow liens against compensation only as  
4 provided by the Labor Code (Lab. Code, §4903 et seq.) and, if it attempts to do otherwise, it acts  
5 in excess of its authority and without jurisdiction. (*Ogdon v. Workmen’s Comp. Appeals Bd.*  
6 (1974) 11 Cal.3d 192, 196 [39 Cal.Comp.Cases 297, 299].) And, as pertinent here, although the  
7 WCAB may allow a lien for “living expenses” (Lab. Code, §4903(c) & (e)), which has been  
8 interpreted to include child support obligations (*Northwestern Redwood Co. v. Industrial Acc.*  
9 *Com. (Schaefer)* (1921) 184 Cal. 484, 487 [7 IAC 213]; *Hernandez v. Workers’ Comp. Appeals*  
10 *Bd.* (1994) 59 Cal.Comp.Cases 634 (writ den.); *County of Sutter v. Workers’ Comp. Appeals Bd.*  
11 *(Neel)* (1990) 55 Cal.Comp.Cases 313 (writ den.); *O’Leary v. Workers’ Comp. Appeals Bd.*  
12 *(Ventor)* (1983) 48 Cal.Comp.Cases 311 (writ den.)), it may do so only for living expenses  
13 incurred *subsequent* to the employee’s date of injury. (Lab. Code, §4903(c) & (e); *Williams v.*  
14 *Workers’ Comp. Appeals Bd.* (1993) 17 Cal.App.4th 582, 591 [58 Cal.Comp.Cases 534, 540-541].)

15 Nevertheless, it must be remembered that the rights and obligations established by the  
16 workers’ compensation system are wholly statutory (E.g., *DuBois v. Workers’ Comp. Appeals Bd.*  
17 (1993) 5 Cal.4th 382, 388 [58 Cal.Comp.Cases 286, 290]; *Johnson v. Workmen’s Comp. Appeals*  
18 *Bd.* (1970) 2 Cal.3d 964, 972 [35 Cal.Comp.Cases 362, 367]; *Ruiz v. Industrial Acc. Com.* (1955)  
19 45 Cal.2d 409, 414 [20 Cal.Comp.Cases 265, 268]) and that the Legislature can create specific  
20 exceptions to any general statutory rules. Any such specific statutory exceptions will control over  
21 other general statutory provisions relating to the same subject matter. (Code Civ. Proc., §1859; *San*  
22 *Francisco Taxpayers Assn. v. Board of Supervisors* (1992) 2 Cal.4th 571, 577; *Fuentes v.*  
23 *Workers’ Comp. Appeals Bd.* (1976) 16 Cal.3d 1, 8 [41 Cal.Comp.Cases 42, 46]; *Lacy v.*  
24 *Richmond Unified Sch. Dist.* (1975) 13 Cal.3d 469, 472; *Rose v. State of California* (1942) 19  
25 Cal.2d 713, 723-724; *American Psychometric Consultants, Inc. v. Workers’ Comp. Appeals Bd.*  
26 *(Hurtado)* (1995) 36 Cal.App.4th 1626, 1637, fn. 11 [60 Cal.Comp.Cases 559, 566, fn. 11].)

1 Here, although the filing of a lien claim with the WCAB for post-injury living expenses is  
2 one statutory mechanism for reaching an employee's workers' compensation disability benefits to  
3 satisfy his or her child support obligations, it is not the *exclusive* statutory mechanism. There are  
4 at least two other such statutory procedures established by the Legislature, both of which allow an  
5 employee's temporary disability indemnity payments to be assigned for his or her child support  
6 obligations. Moreover, for the reasons that follow, we conclude that neither of these statutes  
7 requires the signature of a judicial officer, the filing of a lien with the WCAB, or even WCAB  
8 approval. We also conclude that neither statute precludes the assignment of temporary disability  
9 indemnity for *post-injury* child support obligations.

10 As background, before addressing these two alternative statutory procedures, it is important  
11 to understand that, under family law principles, "earnings" include "[p]ayments due for workers'  
12 compensation temporary disability benefits" (Fam. Code, §5206(d)) and "employer" includes  
13 "[a]ny person or entity paying earnings as defined under Section 5206." (Fam. Code, §5210(c).)  
14 In addition, an "earnings assignment order" is also known as an "earnings assignment order for  
15 support" or an "order/notice to withhold income for child support." (Fam. Code, §5208.)

16 We will now address the two statutory procedures that allow an employee's temporary  
17 disability indemnity payments to be assigned for his or her child support obligations.

18 Family Code section 5246 allows a local child support agency to serve an employer  
19 (which, as just observed, includes an entity paying temporary disability benefits) with an  
20 "order/notice to withhold income for child support" (Fam. Code, §5246(b)), i.e., an earnings  
21 assignment order. (Fam. Code, §5208.) Such an earnings assignment order may be issued by the  
22 local child support agency "[i]n lieu of an earnings assignment order signed by a judicial officer"  
23 and it "shall not require the signature of a judicial officer." (*Id.*) Moreover, such an earnings  
24 assignment order "shall have the same force and effect as an earnings assignment order signed by a  
25 judicial officer." (*Id.*) Also, if the underlying judicially-issued child support order does not  
26 provide for payment of arrearages, or if additional arrearages accrue after the date of the child  
27 support order, the local child support agency's earnings assignment order may "direct[] the

1 employer to withhold an additional amount to be applied towards liquidation of the arrearages.”  
2 (Fam. Code, §5246(d)(2).)<sup>3</sup> If the employee objects to the earnings assignment order, he or she  
3 has ten days after its receipt to request a Superior Court hearing to quash or modify it. (Fam. Code,  
4 §5246(e).)

5 Similarly, “[n]otwithstanding any other provision of law,” Code of Civil Procedure section  
6 704.160 allows a local child support agency “to apply [an employee’s] temporary disability benefit  
7 payments to satisfy [a] support judgment by an earnings assignment order ... or any other  
8 applicable enforcement procedure.” (Code Civ. Proc., §704.160(c); see also, §704.160(b).)<sup>4</sup> “The  
9 amount [of the temporary disability payments] to be withheld pursuant to the earnings assignment  
10 order ... or other enforcement procedure shall be 25 percent of the amount of each periodic  
11 [temporary disability] payment or any lower amount specified in writing by the judgment creditor  
12 or court order.” (Code Civ. Proc., §704.160(c).) The child support obligations to which an  
13 employee’s temporary disability indemnity may be applied expressly include “past due support or  
14 arrearage when it exists.” (Code Civ. Proc., §704.160(d)(3).)

15 Thus, both Family Code section 5246 and Code of Civil Procedure section 704.160 provide  
16 mechanisms by which a local child support agency may enforce an existing judicially-ordered  
17 child support obligation by attaching an employee’s temporary disability benefits through the  
18 issuance of an earnings assignment order served on an insurance carrier or a self-insured employer.  
19 Neither statute requires the local child support agency to follow the lien procedure of the Labor  
20 Code, to obtain prior approval by the WCAB, or to obtain the signature of a judicial officer. To  
21 the contrary, the procedures set forth by Code of Civil Procedure section 704.160 apply  
22 “[n]otwithstanding any other provision of law.” (Code Civ. Proc., §704.160(c); see also,

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23  
24 <sup>3</sup> By statute, an order/notice to withhold income for child support (or an earnings assignment order)  
25 is specifically intended to reach both *arrears* and future obligations. (Fam. Code, §5208.) Indeed, an  
26 order/notice may apply to arrears even after the child support order has terminated. (Fam. Code,  
§5246(f).) This is consistent with the principle that child support obligations, including arrears, are  
enforceable until paid in full, even after the child reaches age 18. (Fam. Code, §§4502(a), 4503, 17400(e).)

27 <sup>4</sup> Again, an “earnings assignment order” is the same as an “order/notice to withhold income for child  
support.” (Fam. Code, §5208.)

1 §704.160(b).) Similarly, Family Code section 5246 allows a local child support agency to issue an  
2 earnings assignment order to withhold temporary disability indemnity for child support “[i]n lieu  
3 of an earnings assignment order signed by a judicial officer,” and the agency’s order “shall not  
4 require the signature of a judicial officer” and it “shall have the same force and effect as an  
5 earnings assignment order signed by a judicial officer.” (Fam. Code, §5246(b).) Thus, the  
6 earnings assignment procedures created by Family Code section 5246 and Code of Civil Procedure  
7 section 704.160 may be utilized by a local child support agency instead of the WCAB’s lien  
8 procedures, without the signature of a judicial officer and without prior WCAB approval, provided  
9 a Court has previously ordered the payment of child support. (*Cf., McClain v. Workers’ Comp.*  
10 *Appeals Bd.* (1994) 59 Cal.Comp.Cases 639 (writ den.).)

11 Moreover, the statutory mechanisms created by Family Code section 5246 and Code of  
12 Civil Procedure section 704.160 expressly provide that the employee’s temporary disability  
13 indemnity may be applied to child support *arrearages*. (Fam. Code, §5246(d)(2) & (f); Code Civ.  
14 Proc., §704.160(d)(3).) Nothing in Family Code section 5246 or in Code of Civil Procedure  
15 section 704.160 suggests that the procedures they establish exclude the assignment of temporary  
16 disability indemnity to satisfy *pre-injury* arrearages, nor will we read any such exclusion into  
17 either statute. Similarly, nothing in the Family Code section 5206(d) definition of “earnings,”  
18 which broadly includes *all* “[p]ayments due for workers’ compensation temporary disability  
19 benefits” (Fam. Code, §5206(d)), indicates that an employee’s temporary disability indemnity may  
20 be taken only to satisfy *pre-injury* arrearages of child support. If the Legislature had intended to  
21 provide that temporary disability indemnity could be assigned only for *post-injury* child support  
22 arrearages, it could have (and should have) expressly said so.

23 The fact that the Legislature has limited liens for “living expenses” only to expenses  
24 incurred *subsequent* to the employee’s date of injury (Lab. Code, §4903(c) & (e)) is not  
25 inconsistent with the absence of any such limitation for assignments of temporary disability  
26 indemnity for child support under Family Code section 5246 and Code of Civil Procedure section  
27 704.160. Although, as discussed above, a lien for “living expenses” may include post-injury child



1 support obligations, it is far from limited to child support obligations. Instead, a “living expenses”  
2 lien may be filed by anyone who advanced credit, loaned money or is owed a debt for any post-  
3 injury living expenses of an injured employee or his or her dependents. (*Coltherd v. Workers’*  
4 *Comp. Appeals Bd.* (1990) 225 Cal.App.3d 455, 461 [55 Cal.Comp.Cases 431, 436]; *Glass*  
5 *Containers, Inc. v. Industrial Acc. Com. (Hart)* (1953) 121 Cal.App.2d 656, 660 [18  
6 Cal.Comp.Cases 305, 308].) Thus, a lien for “living expenses” may include a wide array of  
7 post-injury payments or obligations, not just child support. (*Safway Steel Scaffold Co. v. Industrial*  
8 *Acc. Com. (Helmick)* (1942) 55 Cal.App.2d 388 [7 Cal.Comp.Cases 284] (employer’s lien for  
9 compensation mistakenly paid to employee); *Williams, supra*, 17 Cal.App.4th 582 [58  
10 Cal.Comp.Cases 534] (landlord’s lien for injured employee’s unpaid back rent); *Nesmith v.*  
11 *Workers’ Comp. Appeals Bd.* (1999) 64 Cal.Comp.Cases 1112 (writ den.) (former spouse’s lien for  
12 debts employee owed under a Marriage Settlement Agreement); *Ila v. Hardy* (1953) 18  
13 Cal.Comp.Cases 241 (panel decision) (employer’s continuation of injured employee’s room and  
14 board); *Lewis v. Moore Dry Dock Co.* (1945) 10 Cal.Comp.Cases 254 (panel decision)  
15 (employee’s board and maintenance at State mental hospital).)

16 Thus, we conclude that the statutory procedures of Family Code section 5246 and Code of  
17 Civil Procedure section 704.160 extend to *all* child support arrearages, including pre-injury  
18 arrearages.<sup>5</sup> (See also, Fam. Code, §150 [a “support” obligation “includes *past due* support or  
19 arrearage when it exists” [emphasis added].])

20 In keeping with this conclusion, we find that SCIF properly complied with the County’s  
21 earnings assignment order, as issued in accordance with Family Code section 5246 and Code of  
22 Civil Procedure section 704.160. Therefore, we find that SCIF is not liable for any Labor Code  
23 section 4650(d) penalties resulting from its compliance with the earnings assignment order, and we  
24 find that SCIF’s liability for temporary disability indemnity will be reduced (i.e., credited) to the

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26 <sup>5</sup> Although the Superior Court’s July 22, 2003 child support order, requiring applicant to pay \$69.00  
27 per month in child support, also stated that the County was “authorized to engage in continued or additional  
collection,” our decision regarding arrearages does *not* turn on this language. We would have reached the  
same conclusion had this language been absent.

1 extent of the temporary disability indemnity payments it made to the County. Again, the monies  
2 paid by SCIF to the County constituted temporary disability indemnity. (Fam. Code, §§5206(d),  
3 5246(b); Code Civ. Proc., §704.160(c).)

4 We note in passing that, if an earnings assignment order has been properly issued by a local  
5 child support agency, the statutorily established procedure for challenging such an order is to  
6 request a hearing in Superior Court. (Fam. Code, §5246(e).) Moreover, a Superior Court always  
7 has jurisdiction to prospectively modify its child support orders. (Fam. Code, §§2010(c), 3603,  
8 3633, 3650-3651; *In re Marriage of Armato* (2001) 88 Cal.App.4th 1030, 1039-1043.) Therefore,  
9 an employee who is experiencing financial difficulty in making child support payments because of  
10 the disability (and the diminishment or loss of earnings) caused by his or her industrial injury can  
11 apply to the Superior Court to temporarily or permanently reduce an existing child support  
12 obligation based on a material change in circumstances. (Fam. Code, §§3651, 3680, 3693; *In re*  
13 *Marriage of Sachs* (2002) 95 Cal.App.4th 1144, 1154; *City and County of San Francisco v.*  
14 *Stanley* (1994) 24 Cal.App.4th 1724, 1727; *In re Marriage of Norvall* (1987) 192 Cal.App.3d  
15 1047, 1051.)<sup>6</sup>

16 Accordingly, we will rescind the WCJ's January 6, 2004 decision and substitute findings  
17 consistent with this opinion.<sup>7</sup>

18 For the foregoing reasons,

19 **IT IS ORDERED** as the Decision After Reconsideration of the Appeals Board that the  
20 Findings and Order, issued by the workers' compensation administrative law judge on January 6,  
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22 <sup>6</sup> There is no allegation that the County's earnings assignment order was in any way improper (e.g.,  
23 that it provided for the assignment of greater than 25% of applicant's periodic temporary disability  
24 payments), and we will presume that the County regularly and properly performed its duties in accordance  
25 with the law. (Evid. Code, §664.) Accordingly, we have no occasion to address (and will not address)  
whether there may be any circumstances under which an earnings assignment order issued by a local child  
support agency, and not signed by a judicial officer, may be challenged before the WCAB.

26 <sup>7</sup> The WCJ's January 6, 2004 decision did not rule on applicant's requests for Labor Code section  
27 5814 penalties and Labor Code section 5813 sanctions and attorney's fees against SCIF. Out of an  
abundance of caution, we will also expressly determine those issues in SCIF's favor. (See Lab. Code,  
§5815.)

1 2004, be and it hereby is, **RESCINDED** and that the following Findings and Order be, and it is  
2 hereby, **SUBSTITUTED** therefor:

3 **FINDINGS OF FACT**

- 4 1. Pursuant to Family Code section 5246 and Code of Civil Procedure section 704.160,  
5 the San Bernardino County Department of Child Support Services properly issued an  
6 Order/Notice to Withhold Income for Child Support directing State Compensation  
7 Insurance Fund to withhold both \$69.00 per month in current child support and \$280.00  
8 per month in past due child support, including pre-injury arrearages, from the  
9 temporary disability indemnity payable to applicant, Thomas Messinese, and to pay this  
10 withheld indemnity to the San Bernardino County Department of Child Support  
11 Services.
- 12 2. Before issuing the Order/Notice to Withhold Income for Child Support, the San  
13 Bernardino County Department of Child Support Services was not required to obtain  
14 the signature of a judicial officer, to obtain prior approval of the Workers'  
15 Compensation Appeals Board, or to follow the lien procedures of the Labor Code.
- 16 3. State Compensation Insurance Fund is not liable for penalties under Labor Code  
17 sections 4650(d) or 5814, or for sanctions and attorney's fees under Labor Code section  
18 5813, as a result of the temporary disability indemnity payments it made to the San  
19 Bernardino County Department of Child Support Services pursuant to the Order/Notice  
20 to Withhold Income for Child Support, and the liability of State Compensation  
21 Insurance Fund for temporary disability indemnity will be reduced (i.e., credited) to the  
22 extent of these payments, in an amount to be adjusted by the parties with jurisdiction  
23 reserved to the workers' compensation administrative law judge.

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2 **ORDER**

3 **IT IS ORDERED** that applicant's claims for Labor Code section 4650(d) penalties, Labor  
4 Code section 5814 penalties, and Labor Code section 5813 sanctions and attorney's fees be, and  
5 they hereby are, **DENIED** to the extent those claims relate to the issues addressed herein.

6 ***WORKERS' COMPENSATION APPEALS BOARD***

7  
8 ***F. M. Brass*** \_\_\_\_\_

9 Frank M. Brass

10 ***I CONCUR,***

11  
12 ***/s/ Neil P. Sullivan*** \_\_\_\_\_

13 NEIL P. SULLIVAN

14  
15 ***/s/ James C. Cuneo*** \_\_\_\_\_

16 James C. Cuneo

17 ***DATED AND FILED IN SAN FRANCISCO, CALIFORNIA***

18  
19 ***May 21, 2004***

20  
21 ***SERVICE BY MAIL ON SAID DATE TO ALL PARTIES AS SHOWN ON THE OFFICIAL  
ADDRESS RECORD EXCEPT LIEN CLAIMANTS.***

22 ***NPS/ed***