

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

**DELMÍ CHAVEZ LAZO, *Applicant***

**vs.**

**D&D PAINTING;  
WESCO INSURANCE administered by AMTRUST, *Defendants***

**Adjudication Numbers: ADJ9981669, ADJ10311836  
Los Angeles District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We granted reconsideration in this matter to further study the factual and legal issues presented. This is our Opinion and Decision After Reconsideration.

**I.**

As a preliminary matter, we note that a petition for reconsideration is generally considered denied by operation of law if the Appeals Board does not grant the petition within 60 days after it is filed. (Lab. Code, § 5909.) However, we believe that “it is a fundamental principle of due process that a party may not be deprived of a substantial right without notice ....” (*Shiple v. Workers' Comp. Appeals Bd.* (1992) 7 Cal.App.4th 1104, 1108 [57 Cal.Comp.Cases 493].) In *Shiple*, the Appeals Board denied the applicant’s petition for reconsideration because it had not acted on the petition within the statutory time limits of Labor Code section 5909. This occurred because the Appeals Board had misplaced the file, through no fault of the parties. The Court of Appeal reversed the Appeals Board’s decision, holding that the time to act on applicant’s petition was tolled during the period that the file was misplaced. (*Shiple, supra*, 7 Cal.App.4th at p. 1108.) Like the Court in *Shiple*, “we are not convinced that the burden of the system’s inadequacies should fall on [a party].” (*Shiple, supra*, 7 Cal.App.4th at p. 1108.) In this case, the Appeals Board failed to act on both lien claimant and defendant’s Petitions for Reconsideration within 60 days of filing through no fault of the parties. Therefore, we find that our time to act on both petitions was tolled.

## II.

Both lien claimant, Edwin Haronian, M.D., and defendant, Wesco Insurance Company, administered by Amtrust, timely petitioned for reconsideration of the Findings and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on October 12, 2021.

In that decision, the WCJ found that lien claimant properly provided medical treatment outside the [MPN] to applicant from July 12, 2017 through August 21, 2018, and ordered a review of the billing of Dr. Haronian by court appointed bill reviewer Stelzner & Kyle, with defendant to pay for the review services.

Petitioner, Edwin Haronian, M.D., contends in his petition for reconsideration that the WCJ erred in failing to make findings regarding the reasonableness and necessity of the medication reimbursement and fee schedule value of treatment provided by lien claimant.

Petitioner, Wesco Insurance Company, contends in their petition for reconsideration that the WCJ erred allowing into evidence several of lien claimant's exhibits and in failing to address the treatment to denied body parts as well as whether medication reimbursement was proper.

Both parties requested that the WCAB grant reconsideration, and remand the matter for further proceedings.

The WCJ issued a report recommending that the petition[s] for reconsideration be denied.

Subsequently, the parties participated in a commissioners' settlement conference at our request and agreed to resolve this matter by stipulation.

On August 30, 2023, the parties filed a fully executed Stipulation to pay lien claimant Edwin Haronian, M.D., the sum of \$20,000.00 as full and final satisfaction of Dr. Haronian's lien. The stipulation, signed on August 28, 2023, by attorney Seydi A. Morales for petitioner Edwin Haronian, M.D., and by representative Marialouisa Lizarraga for defendant Wesco Insurance Company, administered by Amtrust, provides as follows:

Having waived the provisions of Labor Code section 5313, the parties stipulate as follows: Lien Claimant, Edwin Haronian, M.D., retains an outstanding balance of \$49,008.69, not inclusive of potential penalty and interest for the services provided in the above referenced case.

Lien Claimant being represented by L/O [Law Office of] Seydi A. Morales, [E]sq. and Defendant being represented by Marialouisa Lizarraga, Hearing Representative with AM TRUST, agree to

resolve the above referenced case for the total sum of \$ 20,000.00 as full and final satisfaction of Edwin Haronian's Lien.

This settlement resolves any and all dates of service in full and final satisfaction of their balance/lien, in the case at bar with all penalty, interests and costs involving the same. Settlement is in lieu of awaiting a decision from the Appeals Board.

Payment will be made upon receipt of WCAB approval (Order/Award) of these stipulations. P&I waived if paid within 30 days from the Order/Award by WCAB.

Payment to be issued to: Edwin Haronian, M.D.

XXXXXXXXXXXXXXXXXX

Tax ID: 95-XXXXXXXX

We conclude that the Stipulations filed by lien claimant and defendant should be approved.

Finally, we commend the parties for engaging in good faith negotiations and successfully resolving this matter without the need for further litigation.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on October 12, 2021, be **RESCINDED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Stipulations of petitioner Edwin Haronian, M.D., and defendant Wesco Insurance Company, administered by Amtrust, executed on August 28, 2023, is **APPROVED**.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



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

**September 29, 2023**

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

**EDWIN HARONIAN, M.D.  
LAW OFFICE OF SEYDI A. MORALES  
MEDICAL COST REVIEW  
HRU-AMTRUST**

**LAS/ara**

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