

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,022-WCA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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RAE RODRIGUEZ

Plaintiff-Appellant

versus

WILLIS KNIGHTON HEALTH

Defendant-Appellee

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Appealed from the
Office of Workers' Compensation, District 1-W
Parish of Caddo, Louisiana
Trial Court No. 2404211

Joseph Gerald Albe, Jr.
Workers' Compensation Judge

* * * * *

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* * * * *

Before PITMAN, MARCOTTE, and ELLENDER, JJ.

MARCOTTE, J

This civil appeal arises from the Office of Workers' Compensation, District 1-W, Caddo Parish. The Honorable Joseph G. Albe, presiding as the workers' compensation judge ("WCJ"), denied Rae Rodriguez's ("Rodriguez") claim for compensation, finding that she forfeited her rights to workers' compensation benefits by violating La. R.S. 23:1208.1. Rodriguez appealed the judgment and Willis-Knighton Health System ("Willis-Knighton") answered the appeal. For the following reasons, we affirm the lower court's ruling.

FACTS AND PROCEDURAL HISTORY

Willis-Knighton hired Rodriguez on September 26, 2022. Before commencing work, Rodriguez reported to Willis-Knighton Work Kare ("Work Kare"), where she passed a pre-employment physical, which determined she was able to perform essential job functions without accommodations. Rodriguez also completed two Post-Hire/Conditional Job Offer Knowledge Questionnaires. She completed the first questionnaire on September 22, 2022, and the second on June 12, 2024, the date of the incident herein. On both questionnaires, question four asked: "Have you ever had an on the job accident?" Rodriguez checked the box next to "No" for this question both times. On both questionnaires, question five asked: "Has a doctor recommended a surgical procedure, which has not been completed prior to this date, including but not limited to knee, hip, or shoulder replacement?" Rodriguez also responded "No" to this question both times. The questionnaires contained the required employee warning, stating that failure to answer any of the questions truthfully could result in the forfeiture of all workers' compensation benefits.

On June 12, 2024, Rodriguez tripped over a strap from a car seat and fell, striking a chair and two filing boxes before hitting the floor. She immediately reported the injury to her supervisor. Later that day, Rodriguez went to Work Kare, where Dr. John Goddard diagnosed her with an injury to her lower back, neck, and right arm. Dr. Goddard opined that “the cause of this problem is work-related activities.” He assigned her work restrictions, prescribed pain medication, and instructed her not to drive or operate equipment.

One week later, Rodriguez returned to Work Kare for a follow-up appointment where she complained of worsening pain. She completed an X-ray of her lumbar spine and right shoulder, which revealed objective findings of injury, received a Toradol injection in her left hip, was prescribed Prednisone, and was told to use heat, ice, and Tylenol for pain. Her work restrictions were kept in place.

On her third visit to Dr. Goddard, Rodriguez reported the same symptoms as before with the addition of neck stiffness and radiating pain in the left leg. Upon concluding his examination, Dr. Goddard administered a second Toradol injection, ordered occupational therapy, and prescribed additional medication. Rodriguez’s work restrictions remained. Before Rodriguez could follow up with Dr. Goddard again, JoAnna Hall, Senior Claims Consultant for Human Services of Louisiana, Inc., Willis-Knighton’s third-party administrator for workers’ compensation benefits, filed a Notice of Controversion and terminated all benefits.

After her claim was denied, Rodriguez began treating with her physician, Dr. Jenness Courtney, at Southern Regional Medical Center. She reported the same symptoms to Dr. Courtney that she reported to Dr.

Goddard. Rodriguez obtained an MRI of her lumbar spine which identified disc bulging and herniation with contact to her nerve root. Based on these findings and exams, Dr. Courtney referred Rodriguez for a spine orthopedic consultation. This referral was denied by Willis-Knighton.

Rodriguez filed a claim for compensation on August 21, 2024. A trial was held on July 30, 2025, where Willis-Knighton argued that Rodriguez made untruthful statements regarding injuries she sustained prior to June 12, 2024. Specifically, Willis-Knighton claimed that she lied by responding “No” to questions four and five on the questionnaire, because she was injured at work in July 2018 and was recommended for surgery, which she did not complete.

In 2018, Rodriguez received medical treatment for a neck injury which included “an MRI of the cervical spine,” prescription medication, “a right C6 selective nerve root block,” and two sessions of physical therapy. She testified that this injury and treatment were the result of a pulling on a heavy door at work while she was employed at Mercedes-Benz of Shreveport. She further testified that the injury could have also been the result of a kayaking incident while on vacation prior to the door-pulling incident. Rodriguez’s treating physician, Dr. Phillip Utter, also recommended that she complete an EMG. The note from Dr. Utter’s first examination states, in pertinent part:

I discussed with the patient that she might benefit from some physical therapy. She would also likely benefit from anterior cervical discectomy and fusion at C5/6 and C6/7. We discussed some of the worrisome signs and symptoms of cervical spine stenosis with myelopathy. I think that she is going to be unlikely to resolve with physical therapy alone, but she may.

At trial, Rodriguez testified that she did not understand the workers' compensation process and believed the July 2018 accident was not a "work accident" because she "wasn't out of work," and "didn't receive any benefits." Rodriguez also testified that she saw Dr. Utter once, did not know that he was a neurosurgeon, did not know that he performed surgeries to the neck area, and did not recall him mentioning any surgeries.

Willis-Knighton also questioned Rodriguez about an incident that occurred on September 7, 2022, while working at Mercedes-Benz of Shreveport. Rodriguez tripped over a leaf blower at work and injured her knee and foot. Rodriguez testified that she did not believe the incident was a "work accident" because she did not miss work and merely twisted her knee and broke a toenail. She did go to Work Kare multiple times because of this incident. On cross-examination, Rodriguez eventually admitted that this was a work accident.

Rodriguez's supervisor at Willis-Knighton, Ashley Paxton, also testified. Paxton was at the Elks Lodge pool in Shreveport on June 14, 2024, and June 28, 2024. She observed Rodriguez at the pool during both of those trips and took pictures of her. Paxton said that she saw Rodriguez sitting in a lounge chair beside the pool but never saw her enter the pool either time she saw her.

The WCJ dismissed Rodriguez's claims in their entirety, finding that although she suffered a compensable work accident, she violated La. R.S. 23:1208.1 by failing to answer truthfully on the questionnaires. The WCJ did, however, find that Willis-Knighton failed to meet its burden of proof that Rodriguez violated La. R.S.

23:1208(A) by willfully making a false statement or representation to receive workers' compensation benefits.

DISCUSSION

Forfeiture under La. R.S. 23:1208.1

Rodriguez argues that the WCJ's forfeiture ruling should be reversed because it lacks a reasonable factual basis and is clearly wrong. She claims that Willis-Knighton failed to prove the two necessary factors under La. R.S. 23:1208.1, namely that (1) she made an untruthful response to a properly worded medical questionnaire, and (2) there was resulting prejudice through either a direct relationship between the nondisclosure and the claimed injury or an adverse effect on Willis-Knighton's ability to obtain second injury fund reimbursement.

Rodriguez asserts that she did not make an untruthful statement within the meaning of the statute because Willis-Knighton's questionnaire was impermissibly vague and failed to elicit the type of information contemplated by the statute. She claims that her answers were consistent with a reasonable interpretation of vague questions and were not knowingly false.

Rodriguez further contends that even assuming there was an inaccuracy in her responses, Willis-Knighton failed to prove prejudice. She claims that Willis-Knighton never proved a direct relationship between the alleged misrepresentation and the claimed injury.

Finally, Rodriguez claims that Willis-Knighton failed to prove that it was deprived of second injury fund reimbursement. She contends that to satisfy this prong, Willis-Knighton had to prove that, absent the alleged nondisclosure, it would have qualified for reimbursement by proving the

existence of a preexisting permanent partial disability (“PPD”) and a statutory “merger” between that condition and the subsequent injury.

Rodriguez avers that the record contains no evidence that Rodriguez had a qualifying PPD before the July 2024 accident. She also claims that there is no evidence that any prior condition merged with the subsequent injury to create a materially greater disability.

Willis-Knighton argues that the trial court did not commit reversible error in finding that Rodriguez violated La. R.S. 23:1208.1 based on her answers to the questionnaires regarding prior work accidents and recommendations for surgery that had not been completed. Willis-Knighton also filed an answer to the appeal to argue in the alternative that if this court should find no violation of La. R.S. 23:1208.1, then it should find that the trial judge committed error by failing to find a violation of La. R.S. 23:1208 due to the willfully untruthful statements made by Rodriguez for the purpose of obtaining workers’ compensation benefits.

Factual findings in workers’ compensation cases are subject to the manifest error or clearly wrong standard of appellate review. *Nelson v. City of Grambling*, 31,303 (La. App. 2 Cir. 12/9/98), 722 So. 2d 358, writ denied, 99-0073 (La. 2/26/99), 738 So. 2d 588. The question of whether the claimant is entitled to compensation benefits is ultimately a question of fact, and the WCJ's resolution of that issue may not be disturbed by the appellate court in the absence of manifest error or unless clearly wrong. *Lee v. Heritage Manor of Bossier City*, 41,828 (La. App. 2 Cir. 3/14/07), 954 So. 2d 276, writ denied, 07-736 (La. 5/18/07), 957 So. 2d 157.

Louisiana R.S. 23:1208.1 provides:

Nothing in this Title shall prohibit an employer from inquiring about previous injuries, disabilities, or other medical conditions and the employee shall answer truthfully; failure to answer truthfully shall result in the employee's forfeiture of benefits under this Chapter, provided said failure to answer directly relates to the medical condition for which a claim for benefits is made or affects the employer's ability to receive reimbursement from the second injury fund. This Section shall not be enforceable unless the written form on which the inquiries about previous medical conditions are made contains a notice advising the employee that his failure to answer truthfully may result in his forfeiture of worker's compensation benefits under R.S. 23:1208.1. Such notice shall be prominently displayed in bold faced block lettering of no less than ten point type.

The purpose of La. R.S. 23:1208.1 is to allow employers to ask prospective employees about prior injuries. The supreme court has provided guidance on this very issue and explained that this statute was designed to “encourage the employment of physically handicapped employees who have a permanent, partial disability by protecting employers ... from excess liability for workers’ compensation for disability when a subsequent injury to such an employee merges with his preexisting permanent physical disability.” *Nabors Drilling USA v. Davis*, 03-0316 (La. 10/21/03), 857 So. 2d 407. Under certain circumstances, a work injury subsequent to a known PPD entitles an employer to seek reimbursement from the statutorily created second injury fund.

To effectuate the purpose of La. R.S. 23:1208.1, employers give a “Second Injury Fund Questionnaire,” which inquires into conditions that may establish a PPD. La. R.S. 23:1371.1(3) defines a PPD as “any permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment, to retention by an employer, or to obtaining reemployment if the employee

becomes unemployed.” Thirty-four conditions listed under La. R.S. 23:1378(F) are presumed permanently partially disabling. Any other questions asked must be narrowly tailored for the purpose of determining the existence of PPDs. *See King v. Grand Cove*, 93-779 (La. App. 3 Cir 3/09/94), 640 So. 2d 348, *writ denied*, 94-0865 (La. 5/13/94), 641 So. 2d 204.

An employee/claimant’s untruthful answers on the questionnaire regarding his permanent partial disability which prejudices his employer’s ability to seek reimbursement from the Second Injury Fund gives rise to an affirmative defense under La. R.S. 23:1208.1, whereby the injured employee forfeits all compensation benefits. *Wise v. J.E. Merit Constructors, Inc.*, 97-684 (La. 1/21/98), 707 So. 2d 1214. However, not every untruthful statement on a medical history questionnaire will result in the forfeiture of workers’ compensation benefits for a subsequent work-related injury. *Nabors, supra*.

By its express terms, La. R.S. 23:1208.1 provides for forfeiture under three circumstances. There must be (1) an untruthful statement; (2) prejudice to the employer; and (3) compliance with the notice requirements of the statute. *Resweber v. Haroil Const. Co.*, 94-2708 (La. 9/5/95), 660 So. 2d 7. The employer has the burden of proving each of the elements required by the statute. *Wise, supra*, at p. 7, 707 So. 2d at 1218. The lack of any one of the elements is fatal to the employer’s avoidance of liability under the statute. *Id.*

Here, it is clear from the record that Rodriguez knew when she completed both questionnaires that she had previously suffered injuries because of accidents arising out of and in the course of her employment.

Rodriguez even admitted on cross-examination that she should have answered yes to the question regarding prior work injuries. We decline to accept Rodriguez's argument that the question "have you ever had an on the job injury" was too vague. We find the question was sufficiently tailored for the purpose of determining the existence of a PPD.

An orthopedic surgeon also told Rodriguez that she would likely benefit from surgery prior to completing the questionnaires. Despite Rodriguez's argument to the contrary, we find Dr. Utter's statement that Rodriguez would "likely benefit from" surgery was tantamount to a surgical recommendation. Her failure to answer truthfully on two separate occasions satisfies the first prong of La. R.S. 23:1208.1.

The second prong of La. R.S. 23:1208.1 is met due to the prejudice Willis-Knighton suffered as a result of Rodriguez's failure to answer truthfully. Dr. Utter told Rodriguez that she would likely benefit from a neck surgery, yet she failed to disclose that fact on the questionnaires and is now seeking benefits for a neck injury from Willis-Knighton. Had Rodriguez answered truthfully on the questionnaires, Willis-Knighton would have been in a position to establish a PPD and seek reimbursement from the second injury fund. The injury for which she now seeks compensation was very likely to occur because of the presence of her PPD. Rodriguez's untruthful statement "directly related to the medical condition for which a claim for benefits is made," and it "affected [Willis-Knighton's] ability to receive reimbursement from the second injury fund." La. R.S. 23:1208.1.

The third prong, whether the employee was provided notice that false statements made in response to the questionnaire could result in forfeiture of benefits, is not in dispute and is clearly present on both questionnaires.

Furthermore the trial judge in this particular case was in the best position to assess credibility of the petitioner.

We cannot say that the WCJ committed manifest error in finding that Rodriguez forfeited her rights to workers' compensation benefits by violating La. R.S. 23:1208.1. Because we find no manifest error in the WCJ's forfeiture ruling under La. R.S. 23:1208.1, we pretermitt any discussion of Willis-Knighton's argument that the WCJ committed error by failing to find a violation of La. R.S. 23:1208.

CONCLUSION

For the foregoing reasons, the WCJ's ruling is affirmed. The costs of the appeal are assessed to Rodriguez.

AFFIRMED.