

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

CASE No. LBO 0238624

VERONICA BOYER

Applicant

vs.

FINDINGS AND ORDER

CHIEF AUTO PARTS;
CALIFORNIA CASUALTY;
SCOTT WETZEL SERVICES,

Defendants.

KEGEL, TOBIN & TRUCE BY: Terri Olsen,
Attorneys for the Defendants

ADOLPH FLOREZ appearing for Lien Claimant
Advanced Professional Imaging

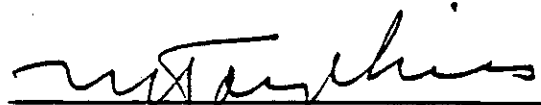
This matter came on for hearing on the issue of the lien of Advanced Professional Imaging all parties having appeared, and the matter having been regularly submitted for decision, the Honorable MICHAEL TOMPKINS, Workers' Compensation Judge, makes his Findings and Order as follows:

FINDING

1. The applicant did not sustain injury during the period May 21, 1991 through May 21, 1992 to her psyche, internal system, back, neck and headaches.
2. The lien claim of Advanced Professional Imaging is denied.

ORDER

IT IS ORDERED that the lien of Advanced Professional Imaging is denied.



MICHAEL TOMPKINS

Workers' Compensation Judge

Served by mail on persons as shown on
The Official Address Record.

Date: June 19, 1996 By Dee Roetzel



CASE No. LBO 0238624

VERONICA BOYER

-vs-

CHIEF AUTO PARTS;
CALIFORNIA CASUALTY
SCOTT WETZEL SERVICES,

WORKERS' COMPENSATION
JUDGE: MICHAEL TOMPKINS

JUNE , 1996

OPINION ON DECISION

INJURY ARISING OUT OF AND OCCURRING IN THE COURSE OF EMPLOYMENT:

It is found that the applicant did not sustain an industrial injury during the period May 21, 1991 through May 21, 1992 to her psyche, internal system, back, neck and headaches. The applicant filed a DWC-1 dated May 26, 1992 wherein it is shown she suffers from headaches, insomnia, nerves and mental stress. An application dated January 21, 1993 indicates injury to internal/psyche. The case was C & R'd with a Thomas waiver for \$1,500.00. No testimony was offered to show industrial injury. Therefore the burden of proof on the issue of industrial injury was not sustained and industrial injury is not found.

LIEN OF ADVANCED PROFESSIONAL IMAGING MEDICAL GROUP:

The lien claim of Advanced Professional Imaging Medical Group for \$1,760.00 is denied.

After the claim form was filed the applicant saw Dr. S. Chan. Dr. Chan described the applicants duties as being those consist with a customer service representative and stated that her systems were due to a somatic disfunction of the spine which was caused by stress at work. The doctor does not indicate that the applicant did anything of a physical nature which had resulted in the diagnosis. Dr. Chan initially evaluated the applicant in June of 1992 and referred her for a psychiatric consult. Then on August 21, 1992 he sent the applicant to Advanced Professional Imaging for studies of the cervical spine. Dr. Chan also treated the applicant with a course physical therapy. During the course of this physical therapy the doctor generated a medical report on September 16, 1992 which refers to the MRI from Advanced. The permanent and stationary medical report dated January 4, 1993 also mentions the MRI.

Labor Code Section 4620 defines medical legal costs as those which are incurred to essentially prove or disprove a claim. Here both the applicant and the claim form address injuries to the applicant other then orthopedic injuries. And it's questioned why the MRI

was ordered by Dr. Chan even Dr. Chan does not state a relationship between applicants diagnosed somatic disfunction to any physical injury at work. The doctor only mentioned "stress" at work. The question then becomes whether these services provided by lien claimant were reasonably and necessarily incurred to prove a contested case. Dr. Kent wrote a convincing and persuasive medical report on March 3, 1993. This report addresses the issue. Dr. Kent states that there is no orthopedic industrial injury and that Dr. Chan's treatment was not reasonable and necessary. Dr. Kent mentioned that even Dr. Chan diagnosed the applicant with a somatic disfunction of the spine. No orthopedic injury was found to be industrial.

Therefore the MRI of the applicants C spine is not reasonable and necessary as a medical legal cost to prove or disprove a non physical stress claim.


MICHAEL TOMPKINS
WORKERS' COMPENSATION JUDGE

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Veronica Boyer
LBO 0238624

*saved on parties by mail
P. John 6-18-96*