

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

DRT

JOSEPH BRAZILE,

CASE NO. LAO0553425

APPLICANT

vs.

**SUPPLEMENTAL
FINDINGS AND ORDER**

LOS ANGELES UNIFIED SCHOOL
DISTRICT, Permissibly Self Insured,

DEFENDANTS

SUPPLEMENTAL FINDINGS OF FACT

1. Applicant filed a false claim of injury aoe/coe herein.
2. Compensable injury was not sustained herein.
3. Medical legal expense was not reasonably incurred herein.

ORDER

IT IS ORDERED that lien claimant Roxsan Radiology take nothing herein.

Dated at Los Angeles, California
and served by mail as shown on
the Official Address Record
on 6-23-97
by [Signature]

[Signature]
WCR Barbara Burke

JOSEPH BRAZILE

vs.

LOS ANGELES UNIFIED
SCHOOL DISTRICT

Workers' Compensation Referee:

Barbara Burke

Date of Alleged Injury:

December 17, 1986

OPINION ON SUPPLEMENTAL DECISION

The issue in these supplemental proceedings is whether medical legal provider Roxsan Radiology can recover its expenses against defendant employer. Lien Claimant contends that defendant's failure to serve medical reports on which it was relying years ago has impaired its ability to prove that its expense was reasonably incurred.

It further contends that with the exclusion of defendant's medical evidence, and the failure to timely serve lien claimant with the findings and award of May 16, 1989 that the WCR is compelled to award reimbursement of medical legal costs.

Lien claimant makes no offer of proof as to how it has been prejudiced by not being timely served with the findings and award and defense medical reports.

LC did not participate earlier in this matter because its lien was not in the WCAB file and for that reason it did not receive notice of hearing.

LC did review the WCAB file, however, and read the opinion on decision, which recited in pertinent part that the WCR found applicant had filed a false claim.

Were it not for the records of treatment and the testimony of Ron Richardson, both of which impeached applicant this case might have been a closer call. Applicant gave a false medical history to no less than 8 examining or treating physicians in this case. [Opinion, page 1]

...

J. Brazile, Page Two

I rely on Richardson's testimony and the audio tape of a conversation between applicant and Richardson December 2, 1986 (Defendant's #F) in determining applicant was involved in illegal activity that took him outside the course and scope of his employment. The consequences of his being caught in this illegal activity, viz. disability and need for treatment, are not his employer's liability. [citation] [page 2]

...
Lien claimants for medical legal costs were not notified of the dates of hearing and thus had no opportunity to litigate liability for their liens. Lien claimants' reports were based on false medical history and applicant's false denial of involvement in the criminal activity that precipitated his disability and need for treatment. It is unfortunate the reporting physicians did not have the Kaiser records to consider but the essential fact is that the cost incurred for their reports was not reasonably incurred. As between a doctor victimized by a false claim [sic] and an employer similarly victimized [sic], the law is that the employer is not liable for unreasonable medical-legal costs. The physician-victim will not recover his costs from the employer. [page 3]

A notice of intent to deny medical legal costs then known to the court then issued, to which no objection was made. Applicant's petition for reconsideration was denied.

Had LC's lien been in the WCAB file at the time, it would have been served with the same notice of intent. Its claim against defendant employer is no better than those of other medical legal providers. LC has made no offer of proof as to how it could possibly have persuaded any finder of fact that applicant did not falsify his claim of injury. Accordingly, its claim is denied.

Dated at Los Angeles, California
and served by mail as shown on
the Official Address Record

WCR Barbara Burke