



1 3. Applicant did not reasonably nor necessarily incur expenses in attempt to prove  
2 a contested claim for the examinations and reports of Thomas A. Gionis (American Institute of  
3 Orthopedi) (\$2,125.00), Jade Psychiatric (\$2,667.00) and for diagnostic studies performed by  
4 J.B.F. Diagnostics (\$3,060.00) or for interpreting services provided by Teresa's Interpreting  
5 Service (\$90.00).

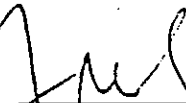
6 4. All other issues are moot.

7  
8 **ORDER**

9 **IT IS ORDERED** that applicant take nothing further herein.

10 **IT IS FURTHER ORDERED** that the lien claims of Thomas A. Gionis  
11 (American Institute of Orthopedic), Jade Psychiatric, J.B.F. Diagnostics and Teresa's  
12 Interpreting be and they are hereby **DISALLOWED**.

13  
14 DATED AT POMONA, CALIFORNIA  
15 March 1, 1995




16 **FRANCIS G. BURKE, JUDGE**  
17 **WORKERS' COMPENSATION APPEALS BOARD**

18 SERVED BY MAIL ON PERSON SHOWN  
19 ON THE OFFICIAL ADDRESS RECORD

20 MAR - 2 1995

21 BY:

  
22 R.L. Milton

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

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Case No. AHM 017-069

PABLO DOMINGUEZ,

*Applicant*

vs.

RALPH'S GROCERY COMPANY; permissibly  
self-insured,

*Defendants.*

FINDINGS AND ORDER  
AND  
ORDER DISALLOWING  
LIEN CLAIMS

Mitchell K. Jayson, attorney for applicant;

Kegel, Tobin & Truce by Sandra Grajeda, as attorneys for defendant.

\* \* \* \* \*

Application having been filed herein, all parties having appeared and the matter having been regularly submitted, the HONORABLE FRANCIS G. BURKE, Judge, now finds, awards and orders as follows:

FINDINGS OF FACT

1. Pablo Dominguez, born November 15, 1947, was employed at Mission Viejo, California, January 1990 through January 14, 1994, as a janitor, by Ralph's Grocery Company, who was permissibly self-insured as to workers' compensation insurance.

2. Applicant did not sustain injury arising out of and occurring in the course of said employment to his chest, lungs, neck, mid and low back, eye, head and psyche as alleged herein.

The medical report of Dr. Gionis is defective in large part because the theory of injury contained within Dr. Gionis' report reflects a specific episode of injury occurring in January, 1990. Applicant's claim herein is a repetitive or cumulative trauma theory of injury and frankly the judge is not persuaded that Dr. Gionis' has established a connection between the work situation and the applicant's disability. In view of this consideration, the judge does not find that Dr. Gionis' report is of sufficient substantiality to warrant any finding favorable to applicant.

Dr. Dreyer, in his report of December 2, 1992 ultimately concludes that applicant does not manifest any impairment of a psychological nature allegedly attributable to the employment exposure. However, even though Dr. Dreyer characterized that applicant is suffering ". . . mild psychological distress," the judge notes that applicant in this testimony indicates it was not his desire to see a psychiatrist. (See Summary of Evidence, October 21, 1994, Page 6). It appears, given applicant's testimony that there was an element of coercion on the referral to Jade Psychiatric and the insistence that he undergo the evaluation even though it was contrary to his desire. In light of this element, the judge is not persuaded that there has been an adequate showing of an injury to the psyche.

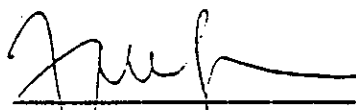
**MEDICAL-LEGAL COSTS:** .....

It is concluded that applicant has not reasonably nor necessarily incurred expenses in attempt to prove a contested claim for the examinations and reports of Thomas A. Gionis (American Institute of Orthopedic) (\$2,125.00), Jade Psychiatric (\$2,667.00) and for diagnostic studies performed by J.B.F Diagnostics (\$3,060.00), or for interpreting services provided by Teresa's Interpreting Services (\$90.00).

As alluded to above and the discussion under compensability, Dr. Gionis has not provided an appropriate theory of injury that is germane to claim herein. Consequently his lien is disallowed. Likewise the lien of J.B.F. Diagnostics is disallowed as it appears to be for a different theory of injury inappropriate for the claim herein. Further, Jade psychiatric is disallowed because of the

applicant's reluctance, in fact his unwillingness to proceed with the psychological evaluation. Finally, in view of the above disallowances, the lien of Teresa's Interpreting must also be disallowed.

In light of the above findings, the balance of the issues raised herein are deemed moot.



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FRANCIS G. BURKE, JUDGE  
WORKERS' COMPENSATION APPEALS BOARD

FGB:lf

cc: Mitchell K. Jayson  
Kegel, Tobin & Truce