

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 180351

MAHMOUD KALAFIA,

Applicant

vs.

ST. FRANCIS MEDICAL CENTER,
Permissibly Self-Insured, adjusted
by SEDGWICK JAMES OF CALIFORNIA,

Defendants.

**Findings and Award
and Order**

Stanley Dzieminski,
Attorney for the Applicant
(Not present but called.);

Kegel, Tobin & Truce,
by Michael A. Ingler,
Attorneys for Defendant;

An application having been filed herein; all parties having appeared and the matter having been regularly submitted, the Honorable JESSIE LOUIE, Workers' Compensation Judge, finds, awards, and orders as follows:

FINDINGS OF FACT

1. MAHMOUD KALAFIA, applicant, born 6/21/46 while employed as a physical therapist, at Lynwood, California, for the period of 9/79 to 7/27/88 by ST. FRANCIS MEDICAL CENTER, permissibly self-insured, adjusted by Sedgwick James of California, did not sustain injury arising out of and occurring in the course of employment to his psyche.

2. Defendants are to pay and/or adjust the medical-legal liens of Dr. Leonard Berezovsky (\$144.00) and Dr. Joel Scheinbaum (\$1,449.00), with jurisdiction reserved by the Board.

3. The lien of Employment Development Department in the amount of \$17,472.00 is disallowed in full.

4. All liens for self-procured medical treatment are disallowed in full.

5. All other issues are moot.

*** AWARD ***

AWARD IS MADE in favor of MAHMOUD KALAFIA, against ST. FRANCIS MEDICAL CENTER, Permissibly Self-Insured c/o SEDGWICK JAMES OF CALIFORNIA, of payment of medical-legal costs as set forth in Finding of Fact 2.


*** ORDER ***

IT IS ORDERED that the applicant take nothing further.

Dated: AUG 24 1994

Service by mail on all parties on the Official Address Record.

By: Lumen Samson



JESSIE LOUIE
WORKERS' COMPENSATION JUDGE
Long Beach

State of California
DIVISION OF WORKERS' COMPENSATION

Case No: 88 LBO 180351

MAHMOUD KALAFIA

vs.

ST. FRANCIS MEDICAL
CENTER, Permissibly
Self-Insured, adjusted
by SEDGWICK JAMES OF
CALIFORNIA,

Workers' Compensation Judge:

JESSIE LOUIE

Date:

August 23, 1994

Stanley Dzieminski,
Attorney for the Applicant
(Not present but called.);

Kegel, Tobin & Truce,
by Michael A. Ingler,
Attorneys for Defendant;

OPINION ON DECISION

Injury AOE/COE:

Applicant did not sustain an injury arising out of and occurring in the course of employment for the period of 9/79 to 7/27/88 to his psyche while he was employed as a physical therapist.

This finding is based on the medical reports of Dr. Raymond J. Friedman dated 10/27/89 - Exhibit A and the medical reports of Dr. John M. Stalberg dated 8/25/92 and 8/7/90 - Exhibit X.

Careful consideration was given to the applicant's employment and medical history at St. Francis Medical Center. It is found that the applicant's termination was the result of his erratic job performances - tardiness and non-compliance with hospital's policies. His place of employment became the passive setting in which his mental disorder unfolded. The fact that he is currently employed with St. John Hospital at his usual and customary occupation and has received good job performance reviews indicate the applicant did not sustain an industrial injury.

Medical-Legal Expenses, Self-procure Medical Treatment, and Lien Claims:

The EDD lien in the amount of \$17,472.00 is disallowed in full based on the finding of a non-industrial injury.

All liens for self-procured medical treatment are disallowed in full based on the finding of a non-industrial injury.

As for the medical-legal expenses of Dr. Leonard Berezovsky, for \$144.00 and Dr. Joel Scheinbaum for \$1,440.00, defendants are ordered to pay or adjust these liens.

The remaining issues of temporary disability, permanent disability, apportionment, further medical treatment, and attorney fees, are moot by the finding of a non-industrial injury.

Amendment to 5/11/94 Minutes of Hearing:

The following documents are admitted into evidence:

1. Statements of Dr. Donald W. Vernin as Exhibit 2.
2. Deposition of John M. Stalberg, M.D., dated 11/25/92 as Exhibit 3.
3. Deposition of applicant dated 6/1/89 and 8/18/92 as Exhibit 4.



JESSIE LOUIE
Workers' Compensation Judge

JL/id

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing ANSWER TO APPLICANT'S PETITION FOR RECONSIDERATION and know its contents.

CHECK APPLICABLE PARAGRAPHS

- I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.
I am an Officer a partner a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for SEDGWICK JAMES OF CALIFORNIA a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. Executed on SEPTEMBER 13, 1994, at LONG BEACH, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

MICHAEL A. INGLER Type or Print Name

Signature

PROOF OF SERVICE 1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of LOS ANGELES, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 330 GOLDEN SHORE DR. #150 LONG BEACH, CA 90802

On SEPT. 13, 1994, I served the foregoing document described as DEFENDANT'S ANSWER TO APPLICANT'S PETITION FOR RECONSIDERATION

on ALL PARTIES in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

- by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows: STANLEY DZIEMINSKI, 24430 HAWTHORNE BLVD. #202 TORRANCE, CA 90505 MAHMOUD KHALAFIA, 25917 NARBONNE #42 LOMITA, CA 90717 SEDGWICK JAMES OF CALIFORNIA, 1500 E. HAMILTON #105 CAMPBELL, CA 95008 ST. FRANCIS MEDICAL CENTER, 3630 E. IMPERIAL HIGHWAY LYNWOOD, CA 90262 WCAB, 245 W. BROADWAY LONG BEACH, CA 90802

BY MAIL

I deposited such envelope in the mail at LONG BEACH, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on SEPTEMBER 13, 1994, at LONG BEACH, California

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on, 19, at, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

** (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

WORKERS' COMPENSATION APPEALS BOARD

MAHMOUD KHALIFA

Applicant

vs.

ST. FRANCES MEDICAL CENTER,
PERMISSIBLY SELF-INSURED,
ADJUSTED BY SEDGWICK JAMES OF
CALIFORNIA*Defendants*

Case No. LBO 180351

Petition for
ReconsiderationA decision was filed in the above-entitled case on AUGUST 24, 1994The APPLICANT MAHMOUD KHALIFA is aggrieved by said decision and hereby petitions for reconsideration upon the following grounds: (strike out items not applicable)

1. By the order, decision, or award, the Board acted without or in excess of its powers.
2. The order, decision, or award was procured by fraud.
3. The evidence does not justify the findings of fact.
4. Petitioner has discovered new evidence material to him which he could not with reasonable diligence have discovered and produced at the hearing.
5. The findings of fact do not support the order, decision or award.

In support of the above, petitioner gives the following details, including a statement of facts upon which petitioner relies and a discussion of the law applicable thereto:

The Worker's Compensation Judge on MAY 11, 1994 in the absence of my attorney, took the case under submission without any hearing on the issues and without taking any evidence in support of my claim, thus denying me the opportunity to present my case and depriving me of due process of law.



