

DTS

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. PAS 35172; 35173

JOSE FUSTER,

Applicant

vs.

NORTHROP CORPORATION;
INDUSTRIAL INDEMNITY COMPANY;
NATIONAL UNION FIRE INSURANCE CO.,
Administered by CONSTITUTION STATE
SERVICE COMPANY,
Defendants

**FINDINGS AND ORDER
DISALLOWING LIENS**

FINDINGS OF FACT

1. The medical reports of Bloch Medical Clinic and Southern California Psychodiagnostics are excluded from evidence herein and the respective liens for medical-legal expenses are disallowed.
2. Having excluded the subject reports, there is no evidence to support the need for the self-procured treatment and the liens of Bloch Medical Clinic and Southern California Psychodiagnostics for self-procured medical treatment are disallowed for lack of evidence to support said liens.

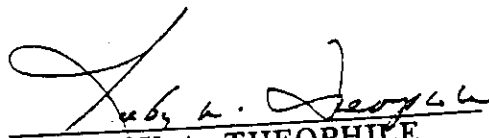
ORDER

IT IS HEREBY ORDERED that the liens of Bloch Medical Clinic and Southern California Psychodiagnostics for medical-legal expenses and self-procured treatment be and hereby are disallowed.

Filed and Served by mail on: FEB 27 1997

On all parties on the
Official Address Record.

By: 


RUBY A. THEOPHILE
WORKERS' COMPENSATION REFEREE

CASE NO.: PAS 35172; 35173

JOSE FUSTER

vs. NORTHROP CORPORATION;
INDUSTRIAL INDEMNITY COMPANY;
NATIONAL UNION FIRE INSURANCE
CO., Administered by CONSTITUTION
STATE SERVICE COMPANY,

Workers' Compensation Referee:

RUBY A. THEOPHILE

OPINION ON DECISION

The applicant, Jose Fuster, filed applications on May 4, 1995 alleging "repetitive stress, psychical strain, harassment and discrimination" on the specific injury date of April 6, 1985 and a second application alleging cumulative trauma of the same nature between May, 1986 to January, 1993.

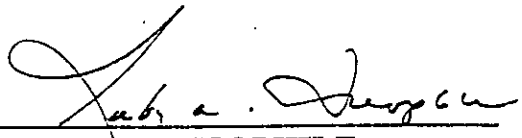
The application was preceded by claim forms dated June 1, 1992 and September 28, 1992 of which defendant employer acknowledged receipt on June 4, 1992 with respect to the specific injury claim and October 28, 1992 of the continuous trauma claim.

At the trial setting of May 3, 1996 the parties reached settlement of the case(s) in chief for \$2,500.00, with a waiver for Thomas vs. Sports Chalet, Inc., (19) 42 CCC 625.

The liens of Bloch Medical Group (\$1,460.00) and Psychodiagnostic (\$1,095.00) were not resolved and thereafter came on calendar for trial at which time the case was ordered off calendar pending the filing of points and authorities and legal argument. At the time of submission of the lien issues lien claimants had attached penalties and interests bringing lien totals to \$1,955.47 (Bloch Medical) and \$1,467.20 (Southern California Psychodiagnosics).

Defendant argues that the liens of Dr. Bloch and Southern California Psychodiagnostic Laboratory should be disallowed and reports excluded because of their violation of Labor Code § 139.3. It has been conclusively established that Dr. Bloch did in fact have a beneficial interest in the psychodiagnostic clinic and failed to disclose such fact. As a result the subject reports are not admissible and the above liens are not compensable.

Labor Code § 139.3 cannot be waived as lien claimant implies in its moving papers. Moreover, that code section provides for criminal sanctions. Contrary to respondent lien claimant's argument and statement of "affiliated" does not meet the statutory requirement of the various subsections of 139.3.



RUBY A. THEOPHILE
 Workers' Compensation Referee

RAT:cd