

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case Nos. LAO 679945; 946

JAIMES GELACIO,

Applicant,

vs.

ANAHEIM FOUNDRY COMPANY;
FIRM SOLUTIONS, INCORPORATED,

Defendants.

JOINT FINDINGS AND ORDER

KEGEL, TOBIN & TRUCE
By: Shirley L. Feagles
Attorneys for Defendant

ALTON C. BROWN
Hearing Representative for Lien Claimants
CHARLTON MEDICAL GROUP
SCHEFFIELD MEDICAL GROUP

An application having been filed herein; Order Approving Compromise and Release having issued herein, the matter was set on the issue of liens; all parties having appeared and the matter having been regularly submitted, the Honorable John D. Young Workers' Compensation Judge, finds and orders as follows:

FINDINGS OF FACT

- (1) All self-procured medical treatment charges will be disallowed.
- (2) The following medical-legal liens will be disallowed: \$6,663.00, Charlton Medical Group and \$1,716.00, Scheffield Medical Group.

ORDER

IT IS ORDERED that all self-procured medical treatment charges be, and they hereby are, disallowed.

IT IS FURTHER ORDERED that the liens as set forth in Finding No. 2 above be, and they hereby are, disallowed.

Filed and Served by mail on: SEP 16 1996
On all parties on the
Official Address Record.

By: Connie Holman
Connie Holman



JOHN D. YOUNG
WORKERS' COMPENSATION JUDGE

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CASE NOS. LAO 679945; 679946

JAIMES GELACIO v. ANAHEIM FOUNDRY COMPANY;
FIRM SOLUTIONS, INCORPORATED,

DATE OF INJURY: JANUARY 8, 1991 TO
OCTOBER 4, 1991 (LAO 679945),
APRIL, 1991, (LAO 679946),

WORKERS' COMPENSATION JUDGE: JOHN D. YOUNG

OPINION ON DECISION

INJURY AOE/COE:

The burden of proof is on the lien claimant to show that the applicant sustained an industrial injury. Labor Code §3202.5. The lien claimant failed this burden of proof.

The applicant did not sustain an industrial injury to his skin from January 8, 1991 to October 4, 1991 or to his psyche, internal, musculoskeletal system and nose from January 8, 1991 to October 4, 1991, or to his back and left leg in April, 1991.

The applicant was laid off on October 4, 1991. A claim form was filed post-termination on October 14, 1991. The claim was properly denied by defendants on January 9, 1992. The case settled for \$1,000.00 with a Thomas finding.

SELF-PROCURED TREATMENT:

All treatment charges are disallowed.

MEDICAL-LEGAL COSTS:

No medical-legal costs may be incurred until October 28, 1991. Labor Code §4620. WCAB Rule 9793. Pursuant to Del Rio v. Quality Hardware (1993) 58 CCC 147, many of the evaluations took place prior to "a contested claim".

All of Charlton's billings for tests and medical evaluations prior to October 14, 1991 are disallowed. The medicine, supplies and therapy charges from October 16, 1991 to February 19, 1992 are disallowed as there was no industrial injury. The purported "medical-legal" of January 6, 1992 is really a treating doctor's evaluation which is limited under 90050 of the RVS Code to \$31.98 plus a report of \$200.00. However, as there is no injury, the treating internist report and evaluation of January 6, 1992 is disallowed.

Charlton Medical Group referred the applicant from within from one medical specialist to another, in violation of Bert v. City of Gridley (1989) 17 CWCR 257. The orthopedic evaluations are herein disallowed as not being medical-legal. No treatment was rendered between orthopedic evaluations, so the "F & S" orthopedic was unnecessary. No evidence was offered by lien claimant that their services were requested by the attorney. It is not "medical-legal".

The Scheffield Medical Group lien represents dermatological services for two purported "medical-legal" evaluations and reports on December 13, 1991 and January 29, 1992. The claim form alleging a continuous trauma to the skin was received by the employer on December 18, 1991. The first report is disallowed as being in violation of Del Rio. There was no contested claim, since the employer knew nothing about a skin claim prior to December 18, 1991. The second report simply reiterates the first report's finding that the skin condition was non-industrial, so why bother with the second report. That second report is unnecessary and unreasonable.

It is the finding of this Court that the lien claims of Charlton Medical Group of \$6,663.00 and Scheffield Medical Group of \$1,716.00 be **DISALLOWED** in their entirety.

Dated: 9/13/96



JOHN D. YOUNG
WORKERS' COMPENSATION JUDGE

JDY/ch