

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case Nos. LAO 700290; 700292

CARLOS RODRIGUEZ,

Applicant,

vs.

WACKENHUT CORPORATION;
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,
c/o Scott Wetzel Services,

Defendants.

JOINT FINDINGS AND ORDER

KEGEL, TOBIN & TRUCE
By: Steven M. Green
Attorneys for Defendant

PATRICIA THOMAS
Representative for Lien Claimant
Marvin Teitelbaum, M.D.

An application having been filed herein; Order Approving Compromise and Release having been issued herein; the matter having been set on the issue of liens; Lien Claimant and Defendant having appeared and the matter having been regularly submitted, the Honorable JOHN D. YOUNG Workers' Compensation Judge, finds and orders:

FINDINGS OF FACT

- (1) Applicant did not sustain an injury arising out of and occurring in the course of his employment .
- (2) The lien of Dr. Teitelbaum will be disallowed.

ORDER

IT IS ORDERED that applicant take nothing further.

IT IS FURTHER ORDERED that the lien of Dr. Teitelbaum be, and it hereby is, disallowed.

Filed and Served by mail on: 5-13-97
On all parties on the
Official Address Record.

By: Connie Holman
Connie Holman

John D. Young
JOHN D. YOUNG
WORKERS' COMPENSATION JUDGE

WJT/NE
Aoe - occasionally
justice is
served.
SMC

CASE NOS. LAO 700290; 700292

CARLOS RODRIGUEZ

v.

WACKENHUT CORPORATION;
NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH,
PENNSYLVANIA,
c/o Scott Wetzel Services,

DATES OF INJURY:

DECEMBER 16, 1992,
(LAO 700290);
DECEMBER 4, 1992,
(LAO 700292),

WORKERS' COMPENSATION JUDGE:

JOHN D. YOUNG

OPINION ON DECISION

INJURY AOE/COE:

The applicant did not sustain any industrial injury to his back on December 4, 1992 or to his back and neck on December 16, 1992. The Court is relying on the medical report of June 7, 1993 by defense Dr. Lee B. Silver who duly noted various inconsistencies in support of his conclusion that there was no industrial injury, no PD and no TD. There were no truly objective factors of PD, no rateable subjective factors of PD, no periods of any TD, and no evidence of any specific or cumulative trauma per Dr. Silver.

As the parties may recall, the first incident allegedly resulted from being shoved in the chest by a co-worker but the applicant did not fall and was not pushed back into anything. That a major injury to the back can result from this alleged shoving is incredible.

The second incident involved an alleged throwing or shoving of a turkey or a box containing a turkey at the applicant's chest. Again, the applicant did not fall and he was not pushed back into anything. That a major injury to the back and neck can result from an alleged flying turkey is simply incredible.

LIEN OF DR. TEITELBAUM:

Incidentally, the case-in-chief settled by way of a Compromise and Release for \$500.00 with a Thomas finding.

As the Court has found no industrial injury, all treatment liens of Dr. Teitelbaum are disallowed.

Scheffield Medical Group prepared an April 21, 1993 medical-legal report based on an evaluation conducted by them on April 19, 1993 (Dr. De Vera). Dr. Teitelbaum's April 23, 1993 medical-legal evaluation was duplicative of Dr. De Vera's report and therefore his bill, lien and report were unnecessary and unreasonable. The bill and lien for Dr. Teitelbaum's April 23, 1993 examination and report in the sum of \$1,045.00 is disallowed.

Dr. Teitelbaum's own summary of charges lists subsequent medical-legal charges of \$595.00 for a July 24, 1993 report and \$360.00 for a September 21, 1993 report for a total of \$955.00 (bill date: October 11, 1993). The July 24, 1993 report is just a single page progress report with just basically 4 handwritten lines that really do not constitute a medical-legal report under WCAB Rule 10606 and basically should be considered treatment (which was disallowed). The \$595.00 lien is disallowed. The medical report of September 21, 1993 is in violation of Labor Code Section 4628(b), that is, no disclosures about location of the examination, who evaluated the applicant, the name and qualifications of anyone assisting the medical evaluator, the time spent evaluating the applicant and so forth. Labor Code Section 4628(e) makes the report inadmissible as evidence and eliminates any liability for payment of this report as a medical-legal cost. The lien of \$955.00 is disallowed.

It is Ordered that the lien of Dr. Teitelbaum be disallowed.

Dated: _____

5/12/97



JOHN D. YOUNG

WORKERS' COMPENSATION JUDGE

JDY/ch