

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

JOSE DE LA CRUZ,

*Applicant*

vs.

ANAHEIM FOUNDRY COMPANY;  
COMCO INSURANCE,

*Defendants.*

Case Nos. AHM 005440

**FINDINGS AND ORDER**

- Law Offices of Kegel, Tobin & Truce, by Shirley L. Feagles, Esq., attorneys for Defendants
- Haydee Clark, hearing rep. for Employment Development Dept.
- Fred Brown, hearing rep. for lien claimants Dr. Hafezi/Whittier Anaheim Physical Therapy/Medical Diagnostic Sciences

Application having been filed herein; and the matter having been regularly submitted, the Honorable JERRE D. VAN GORDER, Workers Compensation Judge, now finds and orders as follows:

**FINDINGS OF FACT**

1. All liens are denied.

**ORDER**

**IT IS ORDERED** that all liens be and are hereby denied.

DATED AT ANAHEIM, CALIFORNIA  
JUNE 9, 1995

Service by mail on parties checked on the official address record effected on above date. *Elizabeth Pla*  
By: Elizabeth T. Pla

  
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JERRE D. VAN GORDER  
WORKERS' COMPENSATION JUDGE

STATE OF CALIFORNIA  
WORKER'S COMPENSATION APPEALS BOARD

CASE NO. AHM 005440

JOSE DE LA CRUZ,

v.

ANAHEIM FOUNDRY  
COMPANY;  
COMCO INCURANCE,

WORKERS' COMPENSATION  
JUDGE: JERRE D. VAN GORDER

INJURY: 8/86 to 8/91

COUNSEL - Law Offices of Kegel, Tobin & Truce, by Shirley L. Feagles, Esq., attorneys for Defendants  
- Haydee Clark, hearing rep. for Employment Development Dept.  
- Fred Brown, hearing rep. for lien claimants Dr. Hafezi/Whittier Anaheim Physical Therapy/Medical Diagnostic Sciences

OPINION ON DECISION

This matter involves the liens of EDD and Dr. Fred Hafezi, Anaheim Physical Therapy and Medical Diagnostic Sciences.

The case in chief relates to applicant's two claim forms alleging a "(C.T.) 8/86-8/91... to his back and knees, internal body parts by continuous stress and strain of employment" (DWC-1 dated 8/9/91). Another claim form is dated on 8/27/91 and alleges a continuous trauma from 8/86 to 8/91 and injury to "mid back, neck, right knee, right shoulder." Applicant did not appear at trial. Two witnesses appeared for defendant, Mike Graziano and Ron Smedley. Applicant's claim was found to be non-meritorious and he received a take-nothing, which became final on May 25, 1995. The liens are addressed separately.

EDD benefits were paid in the amount of \$3,273.14 for the period 9/6/91 to 3/2/92. EDD submits their file material. Dr. Hafezi certified applicant for benefits on 10/24/91. Why benefits were paid beyond the release date of 10/29/91 is unexplained. Also unexplained is the very basis fact that applicant was fired on 8/8/91 after failing to show at work for three days.

There was no report of on the job injury. The above facts were elected from the testimony of the above listed witnesses.

The first report of injury via DWC-1 was received by the employer on 8/30/91. Dr. Hafezi first sees applicant on 8/27/91. His evaluation relates to a claimed forklift specific occurring on 3/14/86. The applicant's records appear to show a stipulation and award of 17 1/2%. There is a ludicrous attempt to create a three year continuous trauma and a permanent disability finding of a standard 10% to the neck and back. There is also the oft-seen and standard referral for outrageously expensive medication (Feldene at \$4.23 per tablet and Zantac at \$4.87 per tablet) and referral to Anaheim Physiotherapy and Medical Diagnostics. The liens of record amount to \$6,095.00- exclusive of medications.

There was no contested claim at the time the initial evaluations were done so as not to comply with L.C. 4620 and the decision in Del Rio. The carrier properly noticed its delay decision and timely denied the case. The reference to the option per L.C. 4603.2 is grossly erroneous in the Hafezi letter of 8/27/91 to Comco Management. There can be no such option per L.C. 4603.2 and 4600 (its derivative code section) except for an accepted claim. It should almost go without saying that all lien claimant's efforts are based upon a completely false history (Penny v. WCAB) and an evaluation of a settled specific incident barred by the statute of limitations.

All liens are denied.

Dated: 6/9/95

  
JERRE D. VAN GORDER  
WORKERS' COMPENSATION JUDGE

JVG:ep

**STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD**

**A Petition for Reconsideration from this decision shall be filed only at the Anaheim district office of the Workers' Compensation Appeals Board.**