

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

ARMANDO CERVANTES, *Applicant*

vs.

**JAY & PAIVA INCORPORATED;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ8789821
Marina del Rey District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

Both Lien Claimants Preferred Scan and Tower Imaging DBA Tower Copy petitioned for reconsideration of the Findings of Fact issued by the workers' compensation administrative law judge (WCJ) in this matter on May 27, 2021. In that decision, the WCJ found as to Preferred Scan that even though their services were reasonable and necessary at the time such services were incurred, Preferred Scan was not entitled to any additional money as there was no evidence they filed for a Second Bill Review. The WCJ found as to lien claimant Tower Imaging that they lacked sufficient evidence to support their right for additional payments for their services and that they should also take nothing further.

Petitioner, Preferred Scan contends in its petition for reconsideration that the WCJ erred in finding Preferred Scan was under a duty to request second bill review as the defendant's Explanations of Review were untimely and/or defective.

Petitioner Tower Imaging contends in its petition for reconsideration that the WCJ erred in finding lien claimant lacked insufficient evidence to show their entitlement to reasonable payments based upon the evidence in the record.

Both Petitioners request the WCJ amend her decision to find there was a lack of proof of timely Explanation of Reviews by defendant as to the lien claimant's services and thus find Petitioners to be entitled to reasonable costs, penalties, and interest, or remand the matter back to the WCJ in accordance with findings of the Appeals Board.

The WCJ issued a report in which she recommended that Lien Claimant Preferred Scan's Petition for Reconsideration be denied, and that Lien Claimant Tower Imaging's Petition for Reconsideration be granted in order to return the matter to the trial for further adjudication as to the reasonable value of their services.

We granted reconsideration of both petitions to further study the factual and legal issues presented.

Subsequently, the parties were invited to participate in a commissioners' settlement conference at our request, and thereafter were able to resolve this matter by stipulation. On October 10, 2022, both lien claimants Preferred Scan and Tower Imaging executed separate Stipulations with defendant settling their dispute for \$2,500.00 per lien claimant as full and final settlement of the dispute.

The stipulation for Preferred Scan, Inc., signed by representative Ani Balian for lien claimant, and Jason Meisler, counsel for defendant, State Compensation Insurance Fund, provides as follows:

Lien Claimant, Preferred Scan, Inc. retains an outstanding balance of \$5,309.61, which includes penalty and interest per LC section 4622(a)(1), for the copy services provided in the above referenced case.

Lien Claimant being represented by Ani Balian and Defendant being represented by Jason N. Meisler of SCIF agree to resolve the above referenced amount for a total sum of \$2,500.00 as full and final satisfaction of Preferred Scan, Inc.'s Lien.

This settlement resolves any and all dates of service for Preferred Scan, Inc. in the case at bar along with all lien matters involving the same.

Payment will be made upon receipt of WCAB approval (Order/Award) of these stipulations.

P&I waived if paid within 30 days from the Order/Award by WCAB.

The stipulation for Tower Imaging, signed by representative Ani Balian for lien claimant, and Jason Meisler, counsel for defendant, State Compensation Insurance Fund, provide as follows:

Lien Claimant, Tower Imaging dba Tower Copy retains an outstanding balance of \$7,477.28, which includes penalty and interest per LC section 4622(a)(1), for the copy services provided in the above referenced case.

Lien Claimant being represented by Ani Balian and Defendant being represented by Jason N. Meisler of SCIF agree to resolve the above referenced amount for a total sum of \$ 2,500.00 as full and final satisfaction of Tower Copy's lien.

This settlement resolves any and all dates of service for Tower Copy in the case at bar along with all lien matters involving the same.

Payment will be made upon receipt of WCAB approval (Order/Award) of these stipulations.

P&I waived if paid within 30 days from the Order/Award by WCAB.

We conclude that the Stipulations filed by both lien claimants and defendant are adequate and should be approved.

Finally, we commend the parties for engaging in good faith negotiations and successfully resolving this matter without the need for further litigation.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings of Fact issued May 27, 2021, be **RESCINDED**.

IT IS FURTHER ORDERED that the Stipulation of lien claimant Preferred Scan and defendant State Compensation Insurance Fund, executed and filed on October 10, 2022, be **APPROVED**.

IT IS FURTHER ORDERED that the Stipulation of lien claimant Tower Copy and defendant State Compensation Insurance Fund, executed and filed on October 10, 2022, be **APPROVED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR



/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 31, 2022

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**TOWER IMAGING DBA TOWER COPY
PREFERRED SCAN, INC.
STATE COMPENSATION INSURANCE FUND**

LAS/ara

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
CS