

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

GRACIELA VIDALES, *Applicant*

vs.

**COUNTY OF SACRAMENTO,
permissibly self-insured, *Defendants***

**Adjudication Number: ADJ8883401
Sacramento District Office**

**OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION
AND DECISION AFTER RECONSIDERATION**

Lien claimant Supreme Copy Service, Inc., (lien claimant) seeks reconsideration of the Findings and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on January 25, 2024. The WCJ found that lien claimant was entitled to payment of \$1,675.85 after interest, penalties, and an adjustment for the subpoenas of Dr. Dirk Kancilia (Invoice #168458), Dr. Champlin (Invoice #168459), Dr. Ortega (Invoice #168460), Physical Therapist Bessas (Invoice #168461), and Dr. Chinn (Invoice #168462).

Lien claimant contends in its petition for reconsideration¹ that the F&A should be amended to reflect an Award of \$2,549.74, which is the result of the application of a 7.90% adjustment on each allowed bill, along with the application of payments, and the application of 10% penalty and 7% interest per annum per Labor Code section 4622(a)(1).

We received an answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be granted and the award be amended as indicated in the Report.

We have considered the allegations of the Petition for Reconsideration and the Answer and the contents of the Report. Based on our review of the record, and for the reasons stated in the

¹On February 20, 2024, lien claimant timely filed a Petition for Reconsideration but labeled it as a "Petition-Other" instead of the intended Petition for Reconsideration title. On February 26, 2024, Lien Claimant re-filed the Petition for Reconsideration using the correct title.

WCJ's Report, which we adopt and incorporate, we will grant reconsideration and affirm the Findings and Award, except that we amend it to find that lien claimant is entitled to payment of its claimed balance, less an adjustment of 7.90%, with credit to defendant for amounts previously paid, plus 10% penalties and 7% interest to be adjusted by the parties with jurisdiction reserved to the WCJ in the event of a dispute.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the Findings and Award issued by the WCJ on January 25, 2024 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Award issued by the WCJ on January 25, 2024, is **AFFIRMED, EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT

2. For the subpoenas of Dr. Dirk Kancilia (Invoice #168458), Dr. Champlin (Invoice #168459), Dr. Ortega (Invoice #168460), Physical Therapist Bessas (Invoice #168461) and Dr. Chinn (Invoice #168462), Supreme Copy Service, Inc., is entitled to payment of its claimed balance, less an adjustment of 7.90%, with credit to defendant for amounts previously paid, plus 10% penalties and 7% interest to be adjusted by the parties with jurisdiction reserved to the WCJ in the event of a dispute.

AWARD

Payment of its claimed balance for the subpoenas of Dr. Dirk Kancilia (Invoice #168458), Dr. Champlin (Invoice #168459), Dr. Ortega (Invoice #168460), Physical Therapist Bessas (Invoice #168461) and Dr. Chinn (Invoice #168462) less an adjustment of 7.90%, with credit to defendant for amounts previously paid, plus 10% penalties and 7% interest to be adjusted by the parties with jurisdiction reserved to the WCJ in the event of a dispute.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 22, 2024

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

**GRACIELA VIDALES
SUPREME COPY SERVICE
HANNA BROPHY**

DLM/oo

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

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

I

Date of Injury: June 4, 2012
Age on DOI: 40 years old
Occupation: Family Services Worker
Parts of Body Injured: Neck, Back, Leg, Psyche, Hip, Knee Identity of Petitioners: Lien Claimant, Supreme Copy Service, Inc. Timeliness: Petition was filed timely
Verification: Petition was verified
Date of Order: January 25, 2024
Petitioners Contentions: Lien Claimant contends the evidence does not support the Findings of Facts and the WCJ acted without or in excess of her power by the Order. Specifically, Lien Claimant contends the Award was calculated incorrectly.

II
FACTS

There was a lien trial where the issue submitted for decision was whether Lien Claimant, Supreme Copy Service, Inc. is entitled to \$2,825.58 after penalties and interest relating to the claimed outstanding balance for the five subpoenas of Dr. Dirk Kancilia Invoice #168458, Dr. John Champlin Invoice #168459, Dr. Reymundo Ortega Invoice #168460, Physical Therapist Dean Bessas Invoice #168461, and Dr. Franklin Chinn Invoice #168462.

At trial, the parties called no witnesses. After the stipulations and issues were read into the record and the exhibits were entered, the issue was submitted on the record for decision.

An award issued that intended to allow Lien Claimant the claimed balance of the five subpoenas less an adjustment of 7.90%, plus 10% interest, and then plus 10% penalties, less credit for payments made toward the invoices for these subpoenas, if any. However, there was a calculation error; the market rate adjustment was done twice.

Lien Claimant filed a Petition for Reconsideration regarding the calculation error and indicating the penalty should be 7% interest per Labor Code section 4622(a)(1).

The Award should be amended to provide \$1,852.21 for the five subpoenas at issue, less credit for payments made toward these subpoenas, if any, plus a 10% penalty, and plus 7% interest per Labor Code section 4622(a)(1).

III DISCUSSION

The subpoenas at issue were ordered through Supreme Court on January 27, 2014, for records from Dr. Kancilia, Dr. Champlin, Dr. Ortega, Physical Therapist Bessas, and Dr. Chinn. (Lien Claimant Exhibit 2)

The underlying workers compensation case was resolved by Compromise and Release which was approved on January 26, 2015. In the Compromise and Release, the parties initialed various disputed issues to be resolved including permanent disability, temporary disability, and future medical treatment.

In his AME Report dated June 2, 2014, Dr. Bernicker reviews records and refers to treatment by Dr. Champlin, Dr. Ortega, Dr. Chinn, and physical therapy care. (Lien Claimant Exhibit 25) It is unclear whether Dr. Bernicker reviewed records by Dr. Kancilia.

Lien Claimant compiled a geographic area analysis of copy service costs based on invoices for services performed from 2005 through 2015 and comparing an average total cost. Lien Claimant concluded its invoices should be discounted by 7.90% to match the average cost from 14 copy service providers in a similar geographic area. (Lien Claimant Exhibit 22) Defendant did not provide any market rate study in rebuttal.

Lien Claimant provided a description of its charges as follows: The base rate is an initial standard fee for services and costs associated with the order not covered by other charges including record archival and general operating costs. The clerical fee is the cost of internal operations including preparation and transmission of non-subpoena correspondence, research, and review for quality control. The field labor fee is associated with the work performed by the staff person in the field. The subpoena duces tecum fee is associated with preparing the subpoena and authorization, and printing paperwork. The subpoena personal service fee is for process service. The first set / price per page fee is for printing the initial set of records. The additional sets fee is a price per page for printing any additional sets of records. The imaging fee is for scanning documents. The notice to parties fee is for service of the notice and copies to interested parties. The process fee is associated with obtaining information about locations to be served including data entry, address verification, and identifying the agent for process. The witness fee is \$15 which is the payment when serving a subpoena. The certificate of no records is a flat fee. The check charge is a fee to reimburse the bank. The page numbering fee is for bates stamping and pagination of the records. The shipping and handling fee is the cost of postage or delivery. The CD transfer fee is for copying records to a CD. The phone call or status fee is to cover calls to facilities to obtain the status of records and set appointments. The mileage fee is a flat fee for travel to locations to serve subpoenas and pickup records. (Lien Claimant Exhibit 21)

Dr. Chinn Invoice #168462

The records of Dr. Chinn were subpoenaed on January 31, 2014. (Lien Claimant Exhibit 10) The invoice was served May 19, 2014 and is for \$324.78 which includes a base fee, field labor, mileage, subpoena preparation, an advance fee, clerical, first set of pages, shipping and handling, and a

research fee. (Lien Claimant Exhibit 20) It is unclear what the advance fee of \$15 is for but no witness fee of \$15 is listed.

Approximately five months after service, the County of Sacramento sent a letter dated October 29, 2014, to Supreme Copy regarding invoice #168462. Defense indicates it “allowed” \$87.85 as a reasonable payment on the bill and objected to the remaining amount as unreasonable and excessive. (Defendant Exhibit E) Defense provides a breakdown of what it considers to be reasonable charges but fails to offer a source or other rationale for the amounts.

The record supports a finding that Lien Claimant is entitled to \$324.78 less an adjustment of 7.90% for Invoice #168462 regarding the subpoenaed records of Dr. Chinn.

Dr. Kancilia Invoice #168458

The records of Dr. Kancilia were subpoenaed on January 31, 2014. (Lien Claimant Exhibit 7) The invoice was served May 19, 2014, and is for \$324.78 which includes a base fee, field labor, mileage, subpoena preparation, an advance fee, clerical, first set for pages, shipping and handling, and a research fee. (Lien Claimant Exhibit 16) Again it is unclear what the advance fee of \$15 is for but no witness fee of \$15 is listed.

Approximately five months after service, the County of Sacramento sent a letter dated October 29, 2014, to Supreme Copy regarding invoice #168458. Defense indicates it “allowed” \$87.85 as a reasonable bill and objected to the remaining amount as unreasonable and excessive. (Defendant Exhibit G) Defense provides a breakdown of what it considers to be reasonable charges but fails to offer a source or other rationale for the amounts.

The record supports a finding that Lien Claimant is entitled to \$324.78 less an adjustment of 7.90% for Invoice #168458 regarding the subpoenaed records of Dr. Kancilia.

Dr. Champlin Invoice #168459

The records of Dr. Champlin were subpoenaed on January 31, 2014. (Lien Claimant Exhibit 8) The invoice was served May 19, 2014, and is for \$367.32 which includes a base fee, field labor, mileage, subpoena preparation, an advance fee, clerical, first set of pages, CD-Rom, additional sets of records, pages scanned, and shipping and handling. (Lien Claimant Exhibit 17)

Approximately five months after service, the County of Sacramento sent a letter dated October 24, 2014, to Supreme Copy regarding charges for the subpoena of records from Dr. Champlin. Defense contends the records were ordered previously by Applicant attorney through Professional Documents Management and were therefore duplicative. Defense objected to the entire bill. (Defendant Exhibit K) Defense offered no supporting documentation that there was a prior subpoena, the date of that prior subpoena, or whether records were produced.

The record supports a finding that Lien Claimant is entitled to \$367.32 less an adjustment of 7.90% for Invoice #168459 regarding the subpoenaed records of Dr. Champlin.

Dr. Ortega Invoice #168460

A notice issued January 27, 2014, indicating records were being subpoenaed from various locations including that of Dr. Ortega. (Lien Claimant Exhibit 2) The invoice was served May 19, 2014, and is for \$486.60 which includes a base fee, field labor, mileage, subpoena preparation, an advance fee, clerical, first set of pages, CD-Rom, additional sets of records, pages scanned, and shipping and handling. (Lien Claimant Exhibit 18)

Approximately five months after service, the County of Sacramento sent a letter dated October 24, 2014, to Supreme Copy regarding Invoice #168460. Defense indicates it “allowed” \$120.92 as a reasonable payment on the bill and objected to the remainder as unreasonable and excessive. (Defendant Exhibit D) Defense provides what it has determined to be reasonable charges but does not provide a source or other rationale for the amounts.

The record supports a finding that Lien Claimant is entitled to \$486.60 less an adjustment of 7.90% for Invoice #168460 regarding the subpoenaed records of Dr. Ortega.

Physical Therapist Bessas Invoice #168461

The records of Physical Therapist Bessas were subpoenaed on January 31, 2014. (Lien Claimant Exhibit 9) The invoice was served May 19, 2014, and is for \$324.78 which includes a base fee, field labor, mileage, subpoena preparation, an advanced fee, clerical, first set of pages, shipping and handling, and research. (Lien Claimant Exhibit 19)

Approximately five months after service, the County of Sacramento sent a letter dated October 29, 2014, to Supreme Copy regarding Invoice #168461. Defense indicates it “allowed” \$87.75 as a reasonable payment on the bill and objected to the remainder as unreasonable and excessive. (Defendant Exhibit L) Defense provides what it has determined to be reasonable charges but does not provide a source or other rationale for the amounts.

The record supports a finding that Lien Claimant is entitled to \$324.78 less an adjustment of 7.90% for Invoice #168461 regarding the subpoenaed records of Physical Therapist Bessas.

IV.

RECOMMENDATION

For the reasons stated above, it is respectfully recommended that Lien Claimant’s Petition for Reconsideration be granted, and the award be amended as indicated above.

DATE: March 1, 2024

Ariel Aldrich
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE