

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Case No. ADJ3570671

LORENZA LOZANO SANCHEZ,

Applicant,

vs.

IN-N-OUT;
CANNON COCHRAN IRVINE;

Defendants.

**FINDINGS AND ORDER AND
NOTICE OF INTENT TO IMPOSE
SANCTIONS, FEES AND COSTS**

The above entitled matter having been heard and regularly submitted, the Honorable Katherine Howells, Workers' Compensation Judge, now decides as follows:

FINDINGS OF FACT

1. LORENZA LOZANO SANCHEZ, born 9/05/70, while employed as a food preparer on 8/04/03 at Irvine, California by IN-N-OUT BURGER, then insured for workers' compensation purposes by WARD NORTH AMERICA, INC., administered by CANNON COCHRAN MANAGEMENT SERVICES, INC., sustained injury arising out of and occurring in the course of employment to the low back and psyche,
2. Lien Claimant, FARWEST DIAGNOSTICS PAIN MANAGEMENT PSYCHIATRIC GROUP did not meet its evidentiary burden to prove reasonableness and necessity of its services and charges.
3. Applicant did not reasonably and necessarily incur the costs for the services of FARWEST DIAGNOSTICS PAIN MANAGEMENT PSYCHIATRIC GROUP.

ORDER

IT IS HEREBY ORDERED that the lien claim of FARWEST DIAGNOSTICS PAIN MANAGEMENT PSYCHIATRIC GROUP in the total of \$2,400.00 be and hereby is disallowed.

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NOTICE OF INTENTION TO IMPOSE SANCTIONS
AND AWARD FEES AND COSTS

NOTICE IS HEREBY GIVEN that Order imposing sanctions in the total of \$500.00, and fees and costs up to \$500.00, jointly and severally against FARWEST DIAGNOSTICS PAIN MANAGEMENT PSYCHIATRIC GROUP, PINNACLE LIEN SERVICES, and SHAWNA BARRETTO, pursuant to Labor Code section 5813, will issue 20 days after service hereof, unless written good cause to the contrary is shown within said time, addressed to the attention of the undersigned.

DATE: January 11, 2013



Katherine Howells
WORKERS' COMPENSATION JUDGE

Service:

FARWEST DIAGNOSTICS, 17532 VON KARMAN AVE IRVINE CA 92614 US Mail

GREG CHOATE SAN DIEGO, PO BOX 720070 SAN DIEGO CA 92172 US Mail

PINNACLE LIEN CORONA, 331 CORPORATE TERRACE CIR CORONA CA 92879 US Mail

On: 1/11/13

By: 

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ3570671

LORENZA LOZANO
SANCHEZ

-vs.-

IN-N-OUT; CANNON
COCHRAN IRVINE, CARL
WARREN TUSTIN;

WORKERS' COMPENSATION JUDGE: Katherine Howells

Opinion on Decision

The parties stipulate that Applicant sustained injury arising out of and occurring in the course of employment to the low back and psyche on 8/04/03, while employed as a food preparer by In-N-Out Burger, then insured for workers' compensation purposes by Ward North America, Inc., currently administered by Cannon Cochran Management Services, Inc. The case-in-chief was resolved by Order Approving Compromise and Release, which was issued on 3/09/06. This matter proceeded to lien trial on the issue of the lien of Farwest Diagnostics Pain Management Psychiatric Group (hereinafter, Farwest Diagnostics) in the total of \$2,400.00 and the Statute of Limitations pursuant to Labor Code section 4903.5.

In regard to the lien itself, no testimonial or documentary evidence was filed, other than the billing of Farwest Diagnostics for dates of service on 01/21/04, 4/26/04, and 6/21/04. (Lien Claimant Exhibit 1) There is nothing to support the lien or the services reportedly provided.

It is well-established that a lien claimant has the burden to evidence the reasonableness of a provider's care and charges in accordance with Labor Code sections 4600 and 5705. (*Tapia v. Skill Master Staffing, Liberty Mutual Insurance Company, Defendants; SB Surgery Center, Lien Claimant* (2008) 73 Cal. Comp. Cases 1338; *Torres v. A.J.C. Sandblasting and Zurich North America* (2012) 77 Cal. Comp. Cases 1113, en banc) Further, pursuant to Labor Code §3202.5, evidentiary burdens must be met with a preponderance of the evidence. In this matter, Lien Claimant offered nothing to support the charges and there is no evidence that the costs were incurred as part of reasonable medical care.

Based upon Lien Claimant's failure to offer any evidence as to the reasonableness of charges and/or the need for the treatment itself, it is found that Lien Claimant did not meet its evidentiary burdens and that Applicant did not reasonably and necessarily incur the cost for the services provided by Farwest Diagnostics. Based upon the finding herein that Lien Claimant did not prove the reasonableness and necessity of the care and charges, the issue of Statute of Limitations is moot.

With due consideration of Lien Claimant's failure to offer evidence in support of its charges, it is found that proceeding to trial was both frivolous and in bad faith within the provisions of Labor Code section 5813. Therefore, notice is hereby given that a joint and several Order imposing sanctions of \$500.00 and assessing fees and costs up to \$500.00 against Farwest Diagnostics Pain Management Psychiatric Group, and Pinnacle Lien Services and its representative Shawna Barretto, will issue 20 days after service hereof, unless written good cause to the contrary is shown within said time, addressed to the attention of the undersigned.

DATE: January 11, 2013



Katherine Howells
WORKERS' COMPENSATION JUDGE

Service:

FARWEST DIAGNOSTICS, 17532 VON KARMAN AVE IRVINE CA 92614 US Mail
GREG CHIOATE SAN DIEGO, PO BOX 720070 SAN DIEGO CA 92172 US Mail
PINNACLE LIEN CORONA, 331 CORPORATE TERRACE CIR CORONA CA 92879 US Mail
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