

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

**TERESA CHAVOLLA, *Applicant***

**vs.**

**DURAN CONTRACTING, INC.,  
STAR INSURANCE,  
adjusted by MEADOWBROOK INSURANCE, *Defendants***

**Adjudication Number: ADJ8318732, ADJ9951555  
Bakersfield District Office**

**OPINION AND DECISION AFTER  
RECONSIDERATION**

We previously granted reconsideration in order to study the factual and legal issues in this case.<sup>1</sup> This is our Opinion and Decision After Reconsideration.

Lien claimant Citywide Scanning seeks reconsideration of the Findings and Orders (F&O) issued by a workers' compensation administrative law judge (WCJ) on April 9, 2020. The WCJ found in relevant part that lien claimant failed to meet its burden that it was entitled to recover on its lien. In his Opinion on Decision, the WCJ stated as a basis for his decision that: "Citywide made no request for records before obtaining them. Under Rule 9982(d) [Cal. Code Regs., tit. 8, § 9982(d)] there would be no allowance of payment for any of Citywide's services."

Lien claimant contends that it met its burden to show that it was entitled to recovery on its lien.

We did not receive an answer from defendant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

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<sup>1</sup> Commissioner Sweeney, who was a member of the panel that granted reconsideration, no longer serves on the Appeals Board. Another panel member was appointed in her place.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ's Report. Based on our review of the record, and for the reasons discussed below, as our decision after reconsideration, we will affirm the F&O except that we will amend it to defer the issue of lien claimant's lien (Finding of Fact 7) and to strike the orders regarding lien claimant's lien (Orders 1, 3, 4, 5), and return the matter to the WCJ for further proceedings consistent with this decision. When the WCJ issues a new decision on the merits of lien claimant's lien, any aggrieved person may timely seek reconsideration.

### **BACKGROUND**

As stated by the WCJ in his Report:

In ADJ8318732, Applicant suffered an admitted injury on December 6, 2011 to the right shoulder while working as a laborer for Defendant. Applicant claimed injury to the left shoulder, neck, and back as well.

In ADJ9951555, Applicant claimed injury over the period from February 9, 2010 to December 9, 2011 to the left shoulder, neck, and back while working for Defendant.

Citywide Scanning provided records from 22 locations (Citywide Exhibit 6) over the period from November 25, 2014 to August 19, 2015. Citywide did not make any request for records before obtaining them.

The copy service fee schedule became effective July 1, 2015. Petitioner filed their lien on October 12, 2016.

These claimed [*sic*] were settled by Order Approving the compromise and release on December 28, 2016. ADJ9951555 was dismissed with prejudice in that Order.

The liens of Citywide Scanning and Dorian Chiropractic were tried on December 10, 2019. Forty-one issues were raised at this trial.

The Order issued on April 9, 2020, disallowing the liens of both Citywide Scanning and Dorian Chiropractic.

Citywide Scanning petitioned for reconsideration of the Order on May 4, 2020.

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The Opinion on Decision stated that Rule 9982(d) does not allow for payment of any copy services within thirty days of a request for service of records in the possession of the employer, claims administrator or carrier.

Citywide offered no evidence of any request prior to their services. Rule 9982 came into effect after some of Citywide's services. Where a fee schedule is issued after a lien claimant's services, the amount of the fee schedule can provide a yardstick against which the reasonableness of the charges can be measured.

The legal basis for the disallowance of Citywide's lien was Rule 9982(d).

(Report, pp. 2-3.)

## DISCUSSION

AD Rule 9982(d) states:

There will be no payment for copy and related services that are:

(1) Provided within 30 days of a written request by an injured worker or his or her authorized representative to an employer, claims administrator, or workers' compensation insurer for copies of records in the employer's, claims administrator's, or workers' compensation insurer's possession that are relevant to the employee's claim,

(2) Provided by any person or entity which is not a registered professional photocopier.

(Cal. Code Regs., tit. 8, § 9982(d).)

Contrary to the WCJ's conclusion, AD Rule 9982 relates to payment for copying services provided, not to the propriety of performing those services in the first place. If a defendant believes that there has been a violation of AD Rule 9982, the remedy is to object to the bills, via the process mandated by Labor Code section 4622 and WCAB Rule 10786 (Cal. Code Regs., tit. 8, § 10786).

Decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10566.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66

Cal.Comp.Cases 473, 476 (Appeals Board en banc.) The WCJ’s decision must “set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal. 2d 753, 755 [33 Cal.Comp.Cases 350]).) Here, the WCJ concluded that there had been a violation of AD Rule 9982, without engaging in the necessary analysis under Labor Code section 4622 and WCAB Rule 10786. Thus, we will defer the issue of the lien so that the WCJ can consider the application of Labor Code sections 4620, 4621, and 4622 and WCAB Rule 10786.

Accordingly, as our decision after reconsideration, we affirm the F&O except that we amend it to defer the issue of lien claimant’s lien (Finding of Fact 7) and to strike the orders regarding lien claimant’s lien (Orders 1, 3, 4, 5) and return the matter to the WCJ for further proceedings consistent with this decision. When the WCJ issues a new decision on the merits of lien claimant’s lien, any aggrieved person may timely seek reconsideration.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers’ Compensation Appeals Board that the Findings and Orders issued by the WCJ on April 9, 2020 is **AFFIRMED**, except it is **AMENDED** as follows:

Findings of Fact 7 is amended and Orders 1, 2, 4, 5 are stricken:

FINDINGS OF FACT

7. The issue of whether Citywide Scanning Service met its burden to show that it is entitled to recovery on its lien is deferred.

ORDERS

2. The lien of Dorian Chiropractic is disallowed.

**IT IS FURTHER ORDERED** that the matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**May 17, 2024**

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

**CITYWIDE SCANNING SERVICE  
DORIAN CHIROPRACTIC CORPORATION  
FLOYD SKEREN MANUKIAN LANGEVIN**

**AS/mc**

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