

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

**BENEDICTO PAYES, *Applicant***

**vs.**

**HITRA dba UNITED ROOFING SUPPLY;  
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ9571937  
Los Angeles District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We previously granted reconsideration in this matter to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration (Petition). Having completed our review, we now issue our Decision After Reconsideration.

Lien claimant Citywide Scanning Service, Inc., (Citywide) seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Order (F&O) of April 29, 2020, wherein the WCJ found in relevant part that no contested claim existed in this case until defendant issued a denial letter on January 27, 2015, lien claimant failed to sustain its burden of proving entitlement to compensation for the copy services and ordered that it take nothing by way of its lien.

Lien claimant contends that the WCJ erred in failing to find that applicant's claim was a contested claim at the time the copy services were performed and that the lien should be allowed.

We did not receive an Answer. We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ, which recommends that the Petition be denied.

We have reviewed the record, and we have considered the allegations of the Petition and the contents of the Report. Based on our review and for the reasons discussed below, we will rescind the WCJ's decision, substitute a new Findings of Fact that a contested claim existed on August 7, 2014, and that the copying services were obtained for purposes of proving or disproving a contested claim. We will defer all other issues and return the matter to the trial level for further proceedings consistent with this opinion and a new decision.

## I.

We will briefly review the relevant facts:

Applicant filed an Application for Adjudication on August 7, 2014, wherein applicant claimed a specific injury to his hand while employed by defendant as a roofer on September 15, 2013.

On August 25, 2014, lien claimant issued a subpoena duces tecum to the custodian of records at defendant, Hitra Inc., dba United Roofing Supply (Hitra). (Exh. 3, Subpoena Duces Tecum (SDT), 8/25/2014, p. 1.) On September 23, 2014, lien claimant provided copy services by copying the records from Hitra. (Exh. 3, SDT, 8/25/2014, p. 3.)

On September 15, 2014, lien claimant issued a subpoena duces tecum to the custodian of records of Dr. Edward Komberg. (Exh. 3, Subpoena Duces Tecum (SDT), 9/15/2014, p. 4.) On October 23, 2014, lien claimant provided copy services by copying the records from Dr. Komberg. (Exh. 3, SDT, 8/25/2014, p. 6.)

On October 24, 2014, August 27, 2015, and August 28, 2015, lien claimant served invoices on defendant. (Exh. 5, Lien Claimant Invoices, 10/24/2014, 8/27/2015, 8/28/2015.)

On November 12, 2014, defendant issued a Notice of Delay in Determining Liability For Workers' Compensation Benefits. (Exh. C, Notice of Delay, 11/12/2014.) The Notice states that benefits were being delayed, ". . . because additional information is necessary to determine if you have suffered a work related injury. In order to make a decision, we need to: obtain a statement or deposition from you. Schedule a medical examination." (Exh. C, Notice of Delay, 11/12/2014.)

On January 27, 2015, defendant issued a letter denying applicant's claim for benefits. (Exh. D, 1/27/2015, Denial Letter.)

On March 27, 2015, lien claimant issued a Demand for Payment.

According to defendant's benefit printout, the first payment and only payment of temporary disability paid to applicant was for August 31, 2015. (Exh. A.)

On November 22, 2016, lien claimant filed a Notice and Request for Allowance of copy service lien in the amount of \$1,386.75.

On June 30, 2017, lien claimant filed a supplemental lien form and section 4903.05(c) declaration.

On October 9, 2019, cost petitioner and defendant proceeded to trial. The parties submitted the matter on the record. The issue raised for trial was: "1. Lien of Citywide Scanning, who is

seeking reimbursement for med-legal expense. a) Penalty and interest. b) Whether there was a contested claim. c) Value of the services. d) Waiver by defendant. e) Credit for payment.”

On April 29, 2020, the WCJ issued the F&O. In pertinent part, it was found that there was no contested claim in this case prior to November 6, 2014, and that none of the photocopy services were obtained for purposes of proving or disproving a contested claim.

In his Opinion on Decision, the WCJ stated that:

However, the record does establish that the Application for Adjudication was served on Defendant on 8/7/14. Despite the Application, there is no evidence that benefits were expressly demanded or that there was any prima entitlement to same. There is no letter from Applicant’s attorney demanding benefits. There are no medical reports in the case file which would support the proposition that there was a dispute over any benefit at the time the Application was filed. The Application also states that the employer provided medical treatment. As such, the evidence does not establish that the employer rejected liability for a claimed benefit or failed to respond to a demand for payment of benefits.

(Opinion On Decision, 4/29/2020.)

## II.

A lien claimant has the initial burden of proof to show that: 1) a contested claim existed at the time the expenses were incurred, and that the expenses were incurred for the purpose of proving or disproving a contested claim pursuant to Labor Code section 4620<sup>1</sup>; and 2) its medical-legal services were reasonably, actually, and necessarily incurred pursuant to section 4621(a). (*Colamonico v. Secure Transportation* (2019) 84 Cal.Comp.Cases 1059 [2019 Cal. Wrk. Comp. LEXIS 111] (Appeals Board en banc).)

Section 4620(a) defines a medical-legal expense as a cost or expense that a party incurs “for the purpose of proving or disproving a contested claim.” (Lab. Code §4620(a).) Copy service fees incurred to obtain medical and other records are considered medical-legal expenses under section 4620(a) that may be recovered by the filing of a lien claim. (*Cornejo v. Yunique Cafe, Inc.* (2015) 81 Cal. Comp. Cases 48 (Appeals Board en banc); *Martinez v. Terrazas* (2013) 78 Cal.Comp.Cases 444, 449 (Appeals Board en banc).)

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<sup>1</sup> Unless otherwise stated, all further statutory references are to the Labor Code.

Section 4620(b) states that:

[a] contested claim exists when the employer knows or reasonably should know that the employee is claiming entitlement to any benefit arising out of a claimed industrial injury and one of the following conditions exists:

- (1) The employer rejects liability for a claimed benefit.
- (2) The employer fails to accept liability for benefits after the expiration of a reasonable period of time within which to decide if it will contest the claim.
- (3) The employer fails to respond to a demand for payment of benefits after the expiration of any time period fixed by statute for the payment of indemnity.

(Lab. Code, § 4620(b).)

In our en banc decision in *Colamonico*, we stated:

While the parties did not raise section 4620 as an issue at the lien trial, we note that a determination of whether a purported medical-legal expense involves a “contested claim” is a fact-driven inquiry. **The public policy favoring liberal pre-trial discovery that may reasonably lead to relevant and admissible evidence is applicable in workers' compensation cases. (*Allison v. Workers' Comp. Appeals Bd.* (1999) 72 Cal. App. 4th 654, 663 [84 Cal. Rptr. 2d 915, 64 Cal.Comp.Cases 624].)** Thus, parties generally have broad discretion in seeking and obtaining documents with a subpoena duces tecum in workers' compensation cases.

(*Id.* at p. 1062, bolding and underlining added.)

A contested claim is not limited to those instances where the claims administrator has rejected all liability for a claim. A contested claim includes instances where the claims administrator has rejected liability for a *specific claimed benefit*, or *has not timely accepted liability for a claim*, or where the claims administrator has admitted liability for the claim and a disputed medical fact exists, e.g., a dispute regarding the nature and extent of the injury. (Lab. Code § 4620(b); Cal. Code Reg., tit. 8. § 9793(b).)

Turning to the merits, the WCJ found that no contested claim existed in this case until defendant issued the denial letter on January 27, 2015. (F&O, 4/29/2020, p. 1.) In its Petition for Reconsideration, cost petitioner contends that a contested claim existed in the instant matter when it performed the copy services for the records requested by applicant’s attorney.

The relevant inquiry is whether cost petitioner's services were costs or expenses reasonably incurred on behalf of the applicant for the purpose of proving a contested claim. (Lab. Code, § 4620(a).) Here, defendant knew a contested claim existed as of August 7, 2014, when applicant's attorney filed the Application for Adjudication, because the Application indicated there was a disagreement regarding liability for: temporary disability indemnity, permanent disability indemnity, reimbursement for medical expense, rehabilitation, medical treatment, supplemental job displacement/return to work, and other-all benefits.

Accordingly, we rescind the F&O and substitute a new Findings of Fact that a contested claim existed on August 7, 2014, and that the copying services were obtained for purposes of proving or disproving a contested claim. We defer all other issues and return the matter to the trial level for further proceedings consistent with this opinion and a new decision.

Upon return, the parties and the WCJ should proceed with the application of sections 4621 and 4622.

For the foregoing reasons,

**IT IS ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the December 20, 2019 F&O is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Benedicto Payes, while employed on September 15, 2013 as a roofer, at Los Angeles, California, by Hitra dba United Roofing Supply, whose workers' compensation insurance carrier was State Compensation Insurance Fund, claims to have sustained injury arising out of and occurring in the course of employment to his bilateral hands.
2. A contested claim existed in this case on August 7, 2014.
3. The photocopying services provided by Citywide Scanning after August 7, 2014 were obtained for purposes of proving or disproving a contested claim.
4. All other issues are deferred.

**IT IS FURTHER ORDERED** that the matter is **RETURNED** to the trial level for further proceedings and a new decision consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ CRAIG SNELLINGS, COMMISSIONER**



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

**August 29, 2025**

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

**CITYWIDE SCANNING SERVICE  
STATE COMPENSATION INSURANCE FUND**

**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*