

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

21F
PRIORITY

Steven Selover ✓

Case No(s).ADJ 7471902 ✓

Applicant,
Beverly Hills Center for Arthroscopic Surgery, Lien
Claimant

vs.

Samuel J. Piazza and Sons Trucking; Oak River Ins.;
Adm. Berkshire, etc.

Defendant(s).

Findings &/Order
Opinion on Decision/Lien Claim
Treatment

An application having been filed, the matter having been duly noticed for trial and the matter having proceeded with trial all parties appearing per the record herein and the matter having been regularly submitted as designated herein, the Honorable Robert T. Pusey, Workers' Compensation Judge, now renders his decision as follows:

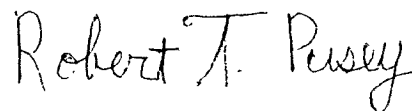
FINDINGS

1. Applicant, Steven Selover, born 10 /5/62, while employed on 11/16/07, as a driver at Southgate, California by Samuel J. Piazza and Sons, sustained injury arising out of and in the course of his employment to his knee. The insurance is with Oak River Insurance Company, Berkshire, etc. adm.
2. The minutes of hearing for the hearings on 6-7-17 are true and correct except as corrected herein and are incorporated by this reference.
3. Lien claimant Beverly Hills Center, etc. is barred from recovering on their lien, filed herein on 12/31/12, for services rendered on 7/8/09 per L.C. Section 4903.5, as worded, prior to its amendment, operative 1/1/13 since more than 5 years from the

date of injury had expired as of 11/16/12, at the time the lien was filed on 12/31/12. There was no duty to serve notice of the Compromise & Release absent a lien being on file in 2010.

AWARD

Judgment is made in favor of defendants Oak River Insurance, et al, as named herein above and against Beverly Hills Center, etc. *Lien Claimant pursuant to Findings 1, 2 and 3 above shall take nothing herein.*



Executed: 6/27/17

Robert T. Pusey,
Workers' Compensation Judge

ADJ7471902/ S. Selover
Served by mail through the WCAB
at San Bernardino, California on the necessary parties
of record herein as shown on the Proof of Service.
Date: 6/27/2017 By: K. Olsen

STATE OF CALIFORNIA
WORKER'S COMPENSATION APPEALS BOARD
CASE NO. ADJ7471902

STEVEN SELOOVER vs. SAMUEL J. PIAZZA AND SONS TRUCKING

WORKERS' COMPENSATION JUDGE: ROBERT T. PUSEY

DATED: JUNE 27, 2017

LIEN CLAIMANT: BEVERLY HILLS CENTER FO ARTHROSCOPIC
SURGERY, LIEN CLAIMANT

OPINION ON DECISION

The Beverly Hills Arthroscopic outpatient medical facility received partial payment on its charges in 2009 for services authorized by the defense and performed on 7/8/09. Additional negotiations took place intermittently up to the filing of the lien on 12/31/12. As explained below the prior version of L.C. Section 4903.5 argued by lien claimant, although it may be applicable, would still bar the prosecution of the lien. The OACR was issued in 2010. No lien was on file for Beverly Hills until 12/31/12.

The effective date of the revised statute is asserted by lien claimant as 1/1/03, whereas the defense asserts 2012, the year the lien was filed. The WCJ concurs with the effective date of SB 863 as 1/1/13 even though the signing date is different (See Govt. Code 9600), so the prior statute controls.

The lien claimant argues that the prior version of L.C. Sect. 4903.5 should govern per the reference to 6 months after notification of the OACR per Reg. 10500. However, absent a lien being on file at the time of the C&R in 2010, the defense had no duty to serve under the prior statute and Reg. 10866.

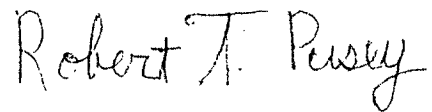
Lien claimant argues that the prior version of L.C. Sect. 4903.5 tolled the statute until 6 months after service of notification on the OACR. The statute alternatively provided for a 1 year period from the date the services were rendered or 5 years from the date of injury "whichever is later."

The date of injury herein was 11/16/07, five years from that date is 11/16/12. The lien was filed too late, on 12/31/12.

The lien claimant is chargeable with knowledge of the law so the burden of exercising due diligence is on the lien claimant.

Recovery on the lien for services and related interest is barred by statute.

DATED: 6/27/17

A handwritten signature in black ink that reads "Robert T. Pusey". The signature is written in a cursive style with a large initial "R" and "P".

ROBERT T. PUSEY

WORKERS' COMPENSATION JUDGE

6/27/2017

Opinion and Decision served with Findings & Order.

On: 6/27/2017

By: K. Olsen

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

06-27-2017

PROOF OF SERVICE
OFFICIAL ADDRESS RECORD

Case Number: ADJ7471902

BERKSHIRE
HATHAWAY SAN
DIEGO

Claims Administrator, PO BOX 881716 SAN FRANCISCO CA 94188

BEVERLY HILLS
CENTER FOR ARTH
AND OP SURGERY

Lien Claimant - Other, 9763 W PICO BLVD STE 250 LOS ANGELES CA
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BRADFORD BARTHEL
ONTARIO

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SAMUEL J PIAZZA
AND SONS

Employer, 9001 RAYO AVE SOUTH GATE CA 90280

STEVEN SELOOVER

Injured Worker, 14730 LA HABRA RD VICTORVILLE CA 92392

6/27/2-017
PROOF OF SERVICE
Findings & Order and
Opinion on Decision
served on parties shown
above.