

INTER-OFFICE MEMORANDUM

TO: ALL ATTORNEYS AND ALL CLIENTS

FROM: W. JOSEPH TRUCE

DATE: AUGUST 9, 2005

RE: ANOTHER VICTORY FOR THE GOOD GUYS VERSUS LIEN CLAIMANTS

In Brower vs. International Union of Hotel and Restaurant Employees (April 15, 2005), 33 CWCR 132, a Board Panel has reversed a decision of a Workers' Compensation Judge and ruled that a medical provider that has accepted payment from Medi-Cal for treatment of an injured worker may not receive further payment for their services in proceedings before the Workers' Compensation Appeals Board.

The Board went on to note that the Supreme Court decision in Olszewski vs. Scripps Health (2003), 30 Ca. 4th 798, reversed the Court of Appeal decision in Boehm & Associates vs. Workers' Compensation Appeals Board (Brower) (2003) 108 Ca. App. 4th 137; 31 CWCR 99; 6866 CCC 548 (lien claimants have proudly cited the Boehm case over the years).

In Brower, the medical provider first accepted payment from Medi-Cal and then turned around and filed a lien with the Appeals Board for the "difference" between the amount received from Medi-Cal and what it termed its usual and customary charges.

However, the Board, in reversing the decision of the Workers' Compensation Judge, "concluded that a medical provider that has accepted payment from Medi-Cal for treatment of an injured worker may not recover further payment for those services in proceedings before the Workers' Compensation Appeals Board . . ."

Therefore, in determining our client's liability, to a particular lien claimant, we want to determine if said lien claimant has received payment on its charges "from any other source as the acceptance of said payment may be a complete bar to the lien claimant."

WJT:dr/ib

