

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. SDO 0271727

Soveida Magana, (Master File)

Applicant,

v.

Center for Employment Training, California
Insurance Guarantee Association, for
Reliance Insurance Company, in liquidation,
through its servicing agent, Intercare
Insurance Services,

Defendants.

**ORDER OF
CONSOLIDATION**
Title 8, California Code of Regs §10589

IT APPEARING that there are numerous files in which there are unresolved liens from ELITE SURGICAL CENTERS ESCONDIDO, L.P., POINT LOMA SURGICAL CENTER, L.P. and SURGICAL CENTERS DEL MAR, L.P. (hereinafter ELITE) that are not part of the previously consolidated cases, and where the charges were incurred for services rendered prior to January 1, 2004, only, and

IT APPEARING that in the interest of judicial economy that ALL such files ought to be consolidated for hearing, and

GOOD CAUSE APPEARING:

ORDER OF CONSOLIDATION

1. *Soveida Magana v. CIGA*, Case No. SDO 0271727 is designated as the master file for this consolidation.
2. As additional cases are identified in which the Elite Surgery Centers identified above have liens for facility charges for services provided prior to January 1, 2004, and which are not already part of the prior consolidated matters, and involve defendants whose cases have not previously been joined, those cases are ordered added to the consolidation and no separate proceeding as to the reasonableness of the charges shall occur as to the Elite lien issue.
3. This consolidation Order shall apply only to cases in which the San Diego District Office of the Workers' Compensation Appeals Board has venue.
4. Workers' Compensation Administrative Law Judge (WCALJ) Charles W. Ellison II is designated to be the discovery, conference and settlement judge.

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5. This Order is not intended to, nor shall it affect any other issues in these cases.
6. Elite is ordered to assist in the identification of the matters to be consolidated, as are the insurance carriers, third party administrators and self-insured, self administered employers.
7. Elite is to provide identifying information consisting of their Patient Identification Code/Number, Applicant Name, Date of Service, Social Security Number, Defendant Claim Number, CPT Codes Billed, Diagnosis Code Used, Billed Amount, Paid Amount, Balance Due, Name of the Carrier/TPA/Self-Insured-Self Administered Defendant, and WCAB Case Number.
8. The following carriers are designated as the "Representative Defendants:" California Insurance Guarantee Association (CIGA), Liberty Mutual/(and Golden Eagle), Zenith Insurance Co., Travelers Insurance Companies and The City of San Diego. ONLY the Representative Defendants will conduct and coordinate all discovery to be conducted on behalf of all defendants. The Representative Defendants may each have one (1) assigned law firm/attorney and are to choose and identify a lead law firm and/or attorney among them for all purposes. Should they not agree, a lead law firm/attorney will be chosen by random selection by the WCALJ.
9. Duplicative discovery is prohibited. Elite and the Representative Defendants, where practicable, are to conduct joint discovery on items such as obtaining comparable billing/accepted fee information from other ASC facilities, etc. All parties are encouraged to coordinate discovery with what has already been accomplished in the previously consolidated Elite matters.
10. Elite and the Representative Defendants are to meet and confer on/about July 20, 2007 to develop an initial discovery plan. The parties agree to comply with all reasonable written informal and formal requests for production of documents and/or subpoenas, with jurisdiction retained by WCALJ Charles W. Ellison II on these issues.
11. All discovery will include a hard copy and a CD/DVD of records obtained. The lead law firm/attorney for the Representative Defendants and Elite will provide contact information so that other, non-representative defendants, at their cost, may obtain copies of the discovery documents and information from the photocopy services.
12. Costs of any joint discovery obtained is to be divided equally among Elite and the Representative Defendants, i.e. each is responsible for one-sixth (1/6th) the cost of the joint discovery.
13. Elite is solely responsible for its individual discovery costs. The Representative Defendants to share cost of their defense discovery equally, i.e. each Representative Defendant is responsible for one-fifth (1/5th) the cost.

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14. The issue of division, of the Representative Defendants' discovery costs and their share of the joint discovery costs, with all other defendants involved is deferred.
15. Should the use of a Bill Review Company become necessary, Elite and the Representative Defendants are to first reasonably attempt to select an Agreed Bill Review Company. Barring that, Elite is to identify and assign only one (1) Bill Review Company on its behalf and the Representative Defendants to identify and assign only one (1) Bill Review Company on behalf of all defendants.
16. All Elite lien cases in the San Diego venue, not already part of the prior consolidated matters are included in this consolidation. However, the only issue to be addressed is the reasonableness of the charges. All other issues, such as Injury AOE/COE, reasonableness and necessity of the treatment, etc., are deferred and will be addressed on an individual case basis.
17. All cases involving Elite liens that are subject to this consolidation shall be removed from any other WCALJ and transferred to WCALJ Charles W. Ellison II. Insofar as there are conferences or hearings presently set that involve an Elite lien, the WCALJ presiding at the conference/hearing will either continue the matter as to the Elite lien only, to the next date set for these consolidated cases or take the matter as to the Elite lien off calendar. In any case with an Elite lien subject to this consolidation, where there is a threshold issue of liability such as Injury AOE/COE, or reasonableness and necessity of the treatment, Elite, in its discretion, and with notification to WCALJ Charles W. Ellison II, may and should participate fully in the trial as to the liability issue(s), deferring only the issue of the reasonableness of Elite's charges to this consolidation.
18. Elite and the Representative Defendants to identify the procedures and the applicable CPT Codes to be included in this consolidation by July 20, 2007.
19. All prior Notices of Intent to Consolidate and/or Orders of Consolidation as to Elite liens subject to this consolidation are superseded and/or rescinded by this Order of Consolidation.
20. Those defendants and/or their single designated law firm/attorney that are not part of the Representative Defendants may provide one (1) email address to the lead law firm/attorney of the Representative Defendants and to the Elite law firm for notice purposes. That is, each carrier/TPA/self-insured-administered employer may provide one (1) email address for all their cases, not for each individual case, in which Elite has a lien.
21. This Order of Consolidation is not intended to prevent or preclude any and all parties from reaching a settlement resolution on the liens at any time during the proceedings.
22. All other ancillary issues, such as credit or offset for excess payments, restitution, penalties and interest are deferred.

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Dated: July 3, 2007

CHARLES W. ELLISON II
Workers' Compensation Administrative Law Judge

() Service by mail on the parties shown on the Official Address Record

Dated: _____ By: _____
E. Abano