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1 MICHAEL BLOTT, D.C.,  
2 17586 VIA LOMA DR.  
3 POWAY, CA 92064  
4 (858) 487-6940

5 STATE OF CALIFORNIA  
6 WORKERS' COMPENSATION APPEALS BOARD

7 Bonnie Jackson,

WCAB NO. SDO 0345671

8  
9 Plaintiff,

LIEN CLAIMANT'S PETITION FOR LATE  
PAYMENT PENALTIES AND SANCTIONS

10 v.

11 Standard Homeopathic Company;  
12 State Compensation Insurance Fund,

13 Defendant.

14 COMES NOW lien claimant, Michael Blott, D.C. and respectfully submits the following Petition for  
15 late payment penalties.

16 The issue before the Court is Defendant State Compensation Insurance Fund's ("SCIF") late payment  
17 of the fee for the Panel Qualified Medical Evaluation and Report performed by the undersigned and the statutory  
18 increase and interest due pursuant to LC section 4622.

19 The Court should consider the constitutional mandate at the foundation of our Workers' Compensation  
20 system, to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of  
21 any character, all of which matters are expressly declared to be the social policy of this State [...]" California  
22 Constitution, Article XIV, section 4.

23 Labor Code section 4622 is perfectly clear: "All medical-legal expenses for which the employer is  
24 liable shall, upon receipt by the employer of all reports and documents [...] be paid to whom the funds and  
25 expenses are due, as follows: [...] (a) within 60 days after receipt by the employer of each separate, written  
26 billing and report, and where payment is not made within this period, that portion of the billed sum then  
27 unreasonably unpaid shall be increased by 10 percent, together with interest thereon at the rate of 7 percent per  
28 annum retroactive to the date of receipt of the bill and report by the employer."

1 In this case, the evidence clearly shows that Defendant SCIF paid for the Panel QME report on  
2 10/26/05. 182 days after the examination was provided on 4/28/05. See Lien Claimant's exhibit "2." SCIF was  
3 served the report and billing on 5/25/05, via US Mail. See Lien Claimant's exhibit "1." LC section 4622  
4 requires payment within 60 days. Application of CCP section 1013 allows for a 5 day extension where service is  
5 by US Mail. As such, SCIF was obligated to pay the bill no later than 7/30/05. Where payment is not made  
6 within 60 days, LC section 4622(a) requires a ten percent increase (\$75.00) and "[...]" interest from at 7% per  
7 annum retroactive to the date of receipt of the bill and report [...]" Pursuant to CCP 1013(a), the report was  
8 received on 5/30/05. Interest is due from 5/30/05 through 5/19/05 (\$22.00).

9 It is important to note that SCIF never made any objection to the reasonableness or necessity of the  
10 Panel QME report which was the basis for settlement of the case in chief.

11 The 10 percent increase and 7% interest are statutory requirements imposed on defendants who make  
12 late payments. SCIF's refusal to make the statutorily required payment is indisputably without merit. SCIF's  
13 motive is clearly to unreasonably delay the statutorily required payment. This is an improper motive and a bad  
14 faith litigation tactic. See CCR 10561.

15 LC section 5813 allows the Workers' Compensation Administrative Law Judge to, sua sponte, order a  
16 party to pay reasonable expenses and costs incurred as a result of bad-faith actions or tactics. Further, the  
17 WCALJ may in its sole discretion, order additional sanctions not to exceed \$2,500.00 to be transmitted to the  
18 General Fund. LC section 5813.

19 Sanctions under CCR 10561 and LC 5813 are more than appropriate under these facts. SCIF's actions  
20 qualify as frivolous and bad faith litigation tactics under CCR 10561. SCIF has failed to timely pay for panel-  
21 QME reports 5 times in the last year, in my practice alone. SCIF has failed to timely pay for the Panel-QME  
22 report in this case. SCIF has forced this issue to a conference as it is refusing to face its statutory obligations.  
23 SCIF has raised no triable issue. SCIF is wasting the Court's time and resources. The Court should Order  
24 additional sanctions under LC section 5813.

25 DATED: 3-5-07

Respectfully submitted,

MICHAEL BLOTT, D.C.

