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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 VANGUARD MEDICAL  
12 MANAGEMENT BILLING, INC.,  
13 a California corporation; ONE-  
14 STOP MULTI-SPECIALTY  
15 MEDICAL GROUP, INC., a  
16 California corporation; ONE-STOP  
17 MULTI-SPECIALTY MEDICAL  
18 GROUP & THERAPY, INC., a  
19 California corporation; NOR CAL  
20 PAIN MANAGEMENT  
21 MEDICAL GROUP, INC., a  
22 California corporation; EDUARDO  
23 ANGUIZOLA, M.D., an  
24 individual, and DAVID  
25 GOODRICH, in his capacity as  
26 Chapter 11 Trustee,

27 Plaintiffs,

28 vs.

CHRISTINE BAKER, in her  
official capacity as Director of the  
California Department of Industrial  
Relations; GEORGE PARISOTTO,  
in his official capacity as Acting  
Administrative Director of the  
California Division of Workers  
Compensation; and DOES 1  
through 10, inclusive.

Defendants.

**Case No. 17-cv-00965-GW-DTB**

**PLAINTIFFS' SUBMISSIONS OF  
EVIDENCE ON DUE PROCESS  
ISSUE IN SUPPORT OF  
PENDING MOTION FOR  
PRELIMINARY INJUNCTION;  
REQUEST FOR JUDICIAL  
NOTICE; DECLARATIONS OF  
DAVID GOODRICH, EDWIN LU,  
DONALD LOWER, VICTOR  
KORECHOFF, LEONARD PINA,  
CHRIS PINKERNELL, MARTY  
RENETZKY, MICHAEL  
RUDOLPH, M.D., SCOTT  
SCHOENKOPF, AND PETER  
YEH**

**Hearing Information:**

Date: September 28, 2017

Time: 8:30 a.m.

Place: United States Courthouse,  
350 West 1<sup>st</sup> Street, Los  
Angeles, CA 90012,  
Courtroom D, 9<sup>th</sup> Floor

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9 Billing, Inc., One Stop Multi-Specialty  
10 Medical Group, Inc., One Stop Multi-  
11 Specialty Medical Group & Therapy, Inc.,  
12 Nor Cal Pain Management Medical  
13 Group, Inc., and Eduardo Anguizola, M.D.*

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22 *Attorneys for David M. Goodrich,  
23 Chapter 11 Trustee*

**PLAINTIFFS’ SUBMISSIONS OF EVIDENCE IN SUPPORT OF PENDING MOTION FOR PRELIMINARY INJUNCTION**

In response to the Declaration of Paige Levy and the Court’s order dated August 30, 2017, and in support of the pending Motion for Preliminary Injunction, Plaintiffs provide the Court with a Request for Judicial Notice and Declarations responsive to both the Declaration of Paige Levy and the Court’s inquiries. The Plaintiffs’ five-page brief is separately submitted.

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In the accompanying brief, Plaintiffs will refer to the ECF-numbered pages when referring to the exhibits and declarations in their accompanying brief.

Dated: September 12, 2017

ARENT FOX  
MALCOLM S. MCNEILL

THE ARMENTA LAW FIRM APC  
M. CRIS ARMENTA  
CREDESCENCE SOL

By: /s/ M. Cris Armenta  
Attorneys for Vanguard Medical  
Management Billing, Inc., One Stop  
Multi-Specialty Medical Group, Inc.,  
One Stop Multi-Specialty Medical  
Group & Therapy, Inc., Nor Cal Pain  
Management Medical Group, Inc., and  
Eduardo Anguizola, M.D.

**REQUEST FOR JUDICIAL NOTICE**

Request for Judicial Notice: Plaintiffs respectfully request that the Court take judicial notice of the subjects listed below pursuant to Rule 201(b) of the Federal Rules of Evidence.

Basis for Judicial Notice or Admission of Evidence: Federal Rule of Evidence 201(b) provides that judicial notice must be "one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." A district court's decision to take judicial notice under Rule 201 is reviewed for an abuse of discretion. United States v. Chapel, 41 F.3d 1338, 1342 (9th Cir. 1994), cert. denied, 514 U.S. 1135, 115 S.Ct. 2017, 131 L. Ed. 2d 1015 (1995). The court may take judicial notice of information in newspaper articles. Ritter v. Hughes Aircraft Co., 58 F.3d 454, 458-459 (9th Cir. 1995). Furthermore, the materials submitted are either appropriate for judicial notice, or nonetheless proper to consider in support of a motion for preliminary injunction. See Johnson v. Couturier, 572 F.3d 1067, 1083 (9th Cir. 2009) (permitting a district court to consider hearsay and other inadmissible evidence in deciding whether to issue a preliminary injunction).

Specific Items Requested for Judicial Notice:

1. Plaintiffs request that the Court take judicial notice of the fact of the public statements made by Defendant Christine Baker, Director of the California Department of Industrial Relations, at the California Workers' Compensation & Risk Conference on September 7, 2016, in which she stated as follows:

Currently, we have stayed over 161 lien providers. That means there's approximately 360,000 stayed liens as well. They're red-flagged on our system — they do not go forward. We've suspended 32 physicians, and we're doing about five per week.

...

This is how we finally get fraudulent liens out of the system once and

1 for all.

2 Emily Brill, “Lanier, Baker Discuss Liens, Formulary Guidelines Rollout at  
3 Conference,” (Work Comp. Central, September 8, 2017) (located at  
4 [https://ww3.workcompcentral.com/news/story/id/c5c3123b45d7592c66eebc9a218ef  
5 e83795a82b4/qs/words=baker,state=,start=0,type=,sort=time,past=,records\\_per\\_pag  
6 e=10,stype=AND,pgno=0](https://ww3.workcompcentral.com/news/story/id/c5c3123b45d7592c66eebc9a218efe83795a82b4/qs/words=baker,state=,start=0,type=,sort=time,past=,records_per_page=10,stype=AND,pgno=0)). A copy of the article is attached hereto as Exhibit 1.

7 2. Plaintiffs request that the Court take judicial notice of the press release  
8 and the DIR’s posting of a report issued by the RAND Corporation: “DWC Posts  
9 RAND Report on Recommendations for Fraud Prevention in the Workers’  
10 Compensation System,” Newsline, Newsline No.: 2017-51 (Department of  
11 Industrial Relations, June 28, 2017). A copy of the press release is attached hereto  
12 as Exhibit 2.

13 3. Plaintiffs request that the Court take judicial notice of the report  
14 commissioned by the DIR entitled “Provider Fraud in California Worker’s  
15 Compensation, Selected Issues,” by Nicholas M. Pace and Julia Pollack, published  
16 by the RAND Corporation, in which Paige Levy is listed in the acknowledgments  
17 as providing “insight” for the preparation of the report. Specifically, Table 5.2  
18 (“Medicaid, Labor Code § 4615 and Labor Code § 139.21 Approaches”) states  
19 with respect to the “Opportunity for Review” for cases affected by “Labor Code  
20 4615,” that there are **“None at present (regulations might be promulgated by  
21 mid-2017”).** A true and correct copy of Table 5.2 is provided hereto as Exhibit 3.  
22 The entirety of the RAND Report is attached hereto as Exhibit 4. The report is  
23 also located on the DIR website within the Newsline, at the link located in Exhibit  
24 2, as referenced above.

25 4. Plaintiffs request that the Court take judicial notice of the page of the  
26 DIR website located at [http://www.dir.ca.gov/fraud\\_prevention/](http://www.dir.ca.gov/fraud_prevention/). On this page, the  
27 DIR *admits* and provides notice to the public that the stayed liens *will not be  
28 litigated*:

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Senate Bill 1160 and Assembly Bill 1244, both of which became effective on January 1, 2017, added important new tools to combat workers’ compensation fraud in the State of California. These tools included a new automatic lien stay provision as well as a process for suspending (i.e. excluding) providers from the workers’ compensation system, and in some cases, consolidating and disposing of their liens.

Lien Stays During Criminal Prosecution

•Labor Code section 4615 places an automatic stay on liens filed by or on behalf of physicians and providers who are criminally charged with certain types of fraud. **The automatic stay prevents those liens from being litigated or paid while the prosecution is pending.** DIR publishes a list of physicians and providers whose liens are stayed pursuant to this statute.

•Criminally Charged Physicians and Providers Whose Liens are Stayed pursuant to Labor Code § 4615

To assist participants in the workers’ compensation system and the public, DIR tries to identify all liens filed by or on behalf of these physicians and providers and mark those liens as “stayed” in the Electronic Adjudication Management System (EAMS). However, EAMS may not reflect all liens that are subject to the automatic stay. If you have information about additional businesses that should be covered by the stay, please notify DIR’s Antifraud Unit.

A true and correct copy of this webpage from the DIR website is attached hereto as Exhibit 5 (emphasis added).

5. The fact that the entity Integrated Health is not listed in the DIR Public List.

6. The current list of indicted/charged providers and the fact that *no entities are included in that list*, which was published on the DIR website pursuant to the Legislative mandate contained in Section 4615. That list is attached hereto as Exhibit 6.

7. The following Minutes of Hearing are mere samples of cases in which WCAB judges have taken Integrated Health-related matters off calendar and stayed them, even though Integrated Health is not on the stayed providers list:

a. Carrillo v. Eco Construction; US Administrator Claims, WCAB

1 Case No. ADJ8543774, Minutes of Hearing dated May 13, 2017, signed by  
2 Presiding Workers' Compensation Administrative Law Judge Lynn E. Donaldson  
3 (listing Integrated Health as "stay"). These Minutes are attached as Exhibit 7.

4 b. Cruz v. Interstate Brands, WCAB Case No. ADJ5815710;  
5 ADJ8011522, Minutes of Hearing, signed by Workers' Compensation Judge  
6 Edelberg, dated May 18, 2017 (listing "Integrated Health Carolyn Davis (Stay)").  
7 These Minutes are attached hereto as Exhibit 8.

8 c. Cuevas v. Liberty Mutual Glendale, WCAB Case No.  
9 ADJ7593899, Hearing Report and Minutes of Hearing, dated May 16, 2017, signed  
10 by Workers' Compensation Judge ("Per [defendant], no stay on indictment on liens  
11 settled today" and listing Integrated Health on "Stay" in Supplement to Minutes of  
12 Hearing). The Hearing Report, Minutes of Hearing and Supplement to Minutes of  
13 Hearing are attached hereto as Exhibit 9.

14 d. Garcia v. Orange County Plastic, WCAB Case No.  
15 ADJ2239097, Minutes of Hearing, dated May 4, 2017 signed by Workers'  
16 Compensation Administrative Law Judge Penny Barbosa ("Integrated Health has a  
17 stay in EAMS"). The Minutes of Hearing are attached hereto as Exhibit 10.

18 Dated: September 12, 2017

ARENTE FOX  
MALCOLM MCNEILL

THE ARMENTA LAW FIRM APC  
M. CRIS ARMENTA  
CRENCE SOL

23 By:       /s/ M. Cris Armenta  
24 Attorneys for Vanguard Medical  
25 Management Billing, Inc., One Stop Multi-  
26 Specialty Medical Group, Inc., One Stop  
27 Multi-Specialty Medical Group & Therapy,  
28 Inc., Nor Cal Pain Management Medical  
Group, Inc., and Eduardo Anguizola, M.D.



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**DECLARATION OF DAVID GOODRICH**

I, David Goodrich, declare:

1. I am an attorney in good standing with the State Bar of California and the Chapter 11 Trustee in In Re Allied Medical Management, Inc., Case No. 6:16-BK-14273-MH (Bkcty. C.D. Cal.) (the "Allied Matter"). I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify as follows:

2. The Allied Matter is a Chapter 11 bankruptcy case involving a debtor, Allied Medical Management, Inc. ("Allied"), that alleges a contractual right to collect on workers' compensation liens arising out of professional services rendered by Plaintiffs One Stop Multi-Specialty Medical Group, Inc. ("OSM"), One Stop Multi-Specialty Medical Group & Therapy Group, Inc. ("OST"), and Nor Cal Pain Management Medical Group, Inc. ("Nor Cal") (collectively, "One-Stop"). I am informed and believe that the medical services (on which the liens OSM, OST and Norcal are based) were provided both by Plaintiff Eduardo Anguizola, M.D., and by *other* licensed medical providers. Allied also collects on behalf of several other providers, including Dr. Michael Rudolph, a medical doctor who has not been indicted or charged with any medical-fraud related crimes, to my knowledge.

3. As the Trustee in the Allied Matter, my responsibilities include operating Allied's business for the benefit of the creditors of that company. Upon the filing of a bankruptcy case, an estate is created (here, the "Allied Estate") that includes all the debtor's legal and equitable interests. The largest asset of the Allied Estate is the right of the debtor (and now of myself in my capacity as Trustee) to collect on One Stop's workers' compensation liens and to receive the contractual compensation arising out of such collections. To accomplish those collections, Judge Houle, the bankruptcy judge presiding over Allied's case, approved my engagement of Medi-Tech Specialty Service, Inc. ("Medi-Tech"), to collect on the

1 OSM, OST, Nor Cal and Dr. Rudolph receivables.

2 4. Prior to the passage of Labor Code Section 4615, the Allied Estate  
3 was collecting approximately \$100,000 per month on the liens that originated with  
4 One-Stop. In late January, the DIR published a list of providers whose lien  
5 payments were to be frozen pursuant to the provisions of Labor Code 4615. Dr.  
6 Anguizola was on that list. OST, OSM and Nor Cal were not on that list. Dr.  
7 Michael Rudolph is not on that list; but a *different* Michael Rudolph, a pharmacist,  
8 is. Now, when my agent goes to the Workers' Compensation Appeal Board to  
9 enforce the liens of One-Stop, the WCAB outright rejects the claim, citing the new  
10 law. This occurs routinely, notwithstanding the fact that any monies on the liens  
11 flow directly to the Bankruptcy Estate, not to Dr. Anguizola. The stays are also in  
12 place with respect to liens for which I understand Dr. Anguizola does not appear in  
13 the files to have rendered any services to the patient – in those cases, the  
14 professional services were apparently provided by other providers who have not  
15 been charged or are not on the DIR Public List to my knowledge. (I am not  
16 providing the actual patient files both because of HIPAA concerns and because the  
17 Allied estate holds tens of thousands of files and the burden of sorting through  
18 them all would be both time- and cost-prohibitive for this beleaguered estate.) The  
19 same result occurs with respect to liens in the name of Michael Rudolph, because  
20 the DIR has misidentified Dr. Rudolph and there is no way to challenge this  
21 misidentification, to my knowledge.

22 5. Collections on the Allied liens have now declined to less than \$30,000  
23 per month, jeopardizing the orderly administration and even the success of the  
24 Allied bankruptcy. Because Allied has been deprived of the revenue from its liens,  
25 as the Allied Trustee I have been deprived of the ability to make payments for  
26 necessary items such as utilities, payroll, insurance, and even the fees due to the  
27 Office of the United States Trustee, a division of the United States Department of  
28

1 Justice.

2 6. The Bankruptcy Court has entertained several motions to dismiss the  
3 bankruptcy because the Allied estate does not have sufficient funds to pay its  
4 quarterly fee to the United States Trustee. The matter is in imminent danger of  
5 being dismissed, nullifying all the work that has been done over the course of the  
6 last 18 months to reorganize the bankrupt estate. If the matter is dismissed, then I  
7 will be unable to pursue any further collections on liens due to the Allied Estate,  
8 unable to collect any debts due to the Allied estate and unable to pay the debts of  
9 Allied.

10 I hereby declare under the laws of the United States of America that the  
11 foregoing is true and accurate and that this declaration was executed on September  
12 12, 2017, in Los Angeles, California.

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15 David Goodrich  
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**DECLARATION OF EDWIN LU**

I, Edwin Lu, declare:

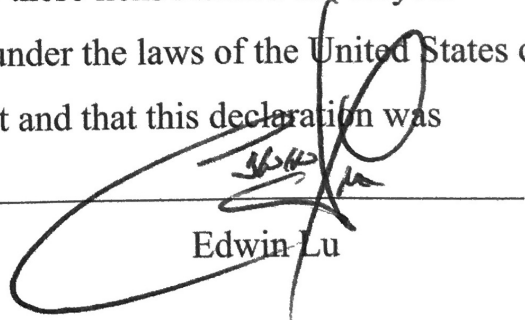
1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I would and could testify competently as follows:

2. I am employed as a hearing representative for a lien claimant named California Imaging Beverly Hills. In that capacity, I am responsible for attending relevant hearings pertaining to that claimant's liens.

3. To my knowledge, California Imaging Beverly Hills has not been criminally charged with or indicted for any crime related to medical or insurance fraud. As far as I understand it, only natural persons appear on the DIR Public List, the list that the DIR publishes on its website.

4. Attached as Exhibit 11 are screenshots from the DIR EAMS, which lists 500 of California Imaging Beverly Hills' liens that have been marked in the system as being subject to a "stay." My personal experience is that if we attend a hearing of any kind for California Imaging Beverly Hills, nothing will happen. Sometimes I am not even permitted to sign in. It has been a futile exercise to pursue any liens of California Imaging Beverly Hills and a waste of time because there appears to be neither any procedure to address the issue of whether the liens are appropriately stayed nor any criteria by which to determine whether the liens are appropriately stayed. Nor is there any way to contest the fact that the liens are listed in EAMS as subject to a "stay." Without exception, the judges do not permit any argument, filing or action with respect to these liens marked as "stayed."

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed in on September 12, 2017.

  
Edwin Lu

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**DECLARATION OF DONALD LOWER**

I, Donald Lower, declare:

1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I would and could testify competently as follows:

2. I am the Chief Executive Officer of Pinnacle Lien Services, a leader in lien litigation services since 1997. Pinnacle Lien Services provides medical billing specialization in complex services for all payer types. In addition, we provide collection services for workers’ compensation medical providers. Pinnacle Lien Services provides medical billing specialization in complex services for all payer types. In addition, we provide collection services for workers’ compensation medical providers. Our hearing representatives regularly appear in front of the courts in the workers’ compensation system, both before the Administrative Law Judges and before the Workers’ Compensation Appeals Board.

3. Since the passage of Senate Bill 1160 and the enactment of Labor Code Section 4615, we have been acutely aware of the complete disarray and lack of any process within the courts and the Board to address the issue of the “automatic lien stays” imposed on our clients by the DIR and within the EAMS system, the Courts and the Board. The revenues of lien claimants whose liens have been caught up in the stays – even if those claimants have not been indicted or charged – have suffered a devastating decrease, drastically affecting not only their businesses but that of Pinnacle.

4. For instance, we represent an entity named First Choice Medical Group, which has not been indicted or criminally charged. The liens of First Choice Medical Group are not noted in the EAMS system as under a stay. Nevertheless, without any notice to First Choice Medical Group or to Pinnacle, the lien claims of this client have not moved forward because the judges have erroneously marked the

1 liens as “stayed.” There appears to be no procedure for challenging the lien stays.

2 5. The following example illustrates how the workers’ compensation  
3 system now routinely disposes of First Choice Medical Group’s liens. Attached as  
4 Exhibit 12 is the EAMS screenshot that lists First Choice Medical Group’s lien in  
5 case ADJ8436321, Bautista v. Basaw Manufacturing. As the EAMS screenshot  
6 shows, the lien is *not* marked as under a stay. Nevertheless, when the hearing  
7 representative for Pinnacle and the lien claimant go to Court, the Workers’  
8 Compensation Judge (apparently informed by a list that is not publicly available on  
9 the EAMS docket) notes that First Choice’s liens have been stayed. Attached as  
10 Exhibit 13 are the Minutes of Hearing for Bautista v. Basaw Manufacturing,  
11 ADJ8436321, dated March 30, 2017, and signed by Workers’ Compensation Judge  
12 Penney Barbosa, in which she notes, “First Choice medical lien has been stayed.”  
13 However, there has never been any notice that First Choice’s liens relative to this  
14 case (and hundreds, if not thousands, of others) are stayed. This fact pattern is  
15 recurrent, as illustrated by the Minutes of Hearing and the EAMS screenshots  
16 attached hereto as Exhibits 12 and 13.

17 6. Another example is Barahona v. Golden Bake Food Products, WCAB  
18 Case no. ADJ8536346. On May 15, 2017, Worker’s Compensation  
19 Administrative Law Judge Nina C. Munoz held a hearing to approve lien  
20 stipulations. With respect to First Choice Medical Group, the Minutes of Hearing  
21 stated that the entity is under stay. However, the screenshot from the EAMS  
22 docket does not reveal the existence of a stay. Both documents are attached hereto  
23 as Exhibit 14.

24 7. First Choice was not permitted to litigate its lien in Estrada v. Orion  
25 Ornamental, WCAB Case No. ADJ8418642, ADJ8418649, because as Workers’  
26 Compensation Judge Debra Keyson noted in the Minutes of Hearing as she took  
27 the matter off-calendar, “First Choice stayed per WCAB.” I am not aware of any  
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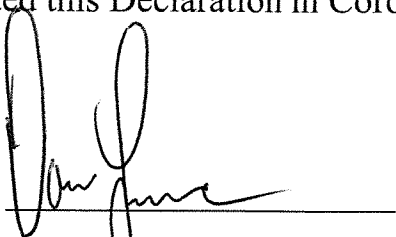
1 order from the WCAB that imposes a stay on First Choice. Attached as Exhibit 15  
2 are the Minutes of Hearing and the screenshot for the EAMS docket for this case,  
3 both of which show that there is no stay.

4 8. In Noemi v. NYDJ Apparel, WCAB Case Nos. ADJ8164869,  
5 ADJ8164870, again the EAMS screenshot shows the existence of no stay, but the  
6 Minutes of Hearing signed on June 27, 2017 by the Worker’s Compensation  
7 Administrative Law Judge note that “First Choice Med. Grp stayed pursuant to PJ  
8 Gunn.” Attached as Exhibit 16 are the documents relative to this case.

9 9. In Perez v. Harvard Label, WCAB Case No. ADJ8270122, the  
10 Hearing Minutes of August 3, 2017, reflect that the Workers’ Compensation Judge  
11 acknowledged that “First Choice Med is subject to stay.” Yet again, however, the  
12 EAMS system does not list the lien as stayed. Attached as Exhibit 17 are  
13 documents relative to this case.

14 10. Because First Choice is not subject to any order that it is stayed, and  
15 the judges have often said that they lack “jurisdiction” to decide whether the liens  
16 are properly stayed, there appears to be absolutely no recourse for rejected lien  
17 claimants to address the stay problem.

18 I declare under the penalty of perjury under the laws of the United States of  
19 America that the foregoing is true and that I executed this Declaration in Corona,  
20 California on September 12, 2017.

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24 Donald Lower

**DECLARATION OF VICTOR KORECHOFF**

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I, Victor Korechhoff, declare:

1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I would and could testify competently as follows:

2. I am an attorney admitted to and in good standing with the State Bar of California. I am also admitted to practice before this Court. I am General Counsel a number of physicians and lien claimants, and in that capacity have the responsibility and opportunity to constantly review the statutes, regulations, policies, practices and results within California’s workers’ compensation system I have appeared as an attorney before the workers’ compensation courts, including the Workers’ Compensation Appeals Board over a period of approximately 30 years. This includes overseeing the processing, filing, documentation and pursuit of lien claims. I am also the General Counsel to Vanguard Medical Management Billing, Inc. among other lien claimants, including physicians and other medical providers such as medical groups or practices.

3. I am providing this declaration to provide the Court with information about the rules, regulations and practice and procedure associated with Labor Code Section 4615, along with the statute’s actual effects on lien claimants. I have read in detail the Declaration of Chief Judge Paige Levy and found it to be an incomplete and inaccurate recitation of Labor Code Section 4615, the regulations and rules of practice associated with it, and its effect in the workers’ compensation courts. Most significantly, Judge Levy’s declaration is contradicted not only by the statutes, regulations and practice in the field, but also—and most significantly—by the “Policy and Procedures Manual – Workers’ Compensation Appeals Board (2013) Revision” published by the DIR. Judge Levy served on the 2012-2013 Revision Committee and the 2002-20003 Revision Committee that authored this



1 “Policy and Procedure Manual.” The Manual’s introduction notes:

2 This 2013 revision of the DWC/WCAB Policy and Procedural Manual was  
3 prepared under the direction of the Administrative Director of the Division  
4 of Workers' Compensation (DWC) and Chairwoman of the Workers'  
5 Compensation Appeals Board (WCAB) pursuant to Labor Code Section  
6 133, which section confers on the DWC Administrative Director and the  
7 Appeals Board the power and jurisdiction "to do all things necessary or  
8 convenient in the exercise of any power or jurisdiction conferred upon it  
9 under this code."

10 *This manual consists of policies and procedures that DWC/WCAB  
11 employees are required to follow and to assist the DWC and the WCAB in  
12 providing uniformity and direction to its employees in the day-to-day  
13 operation of the Board and its district offices.*

14 Attached as Exhibit 18 is a true and correct copy of the Policy and Procedure  
15 Manual.

16 4. The Court has asked for evidence as to “how Section 4615 is currently  
17 being applied procedurally” in response to Judge Levy’s declaration. (Docket Nos.  
18 46, 47, 48, 50, Tentative Ruling issued August 30, 2017, at 3.) This declaration  
19 aims to provide this court with both clarity and an accurate answer to its question.  
20 I also provide evidence that “dispute[s] Judge Levy’s testimony” and shows “how  
21 Section 4615 is being applied ‘on the ground.’” Finally, I provide a discussion of  
22 the procedures set forth in the Manual. Taken together, this evidence shows the  
23 irreparable harm to lien claimants caused by Labor Code Section 4615; it also  
24 shows that lien holders are being deprived of their interests without being afforded  
25 due process of law.

26 5. Publication of List Pursuant to Legislative Mandate. Labor Code  
27 Section 4615 requires the administrative director to “promptly post on the  
28 division’s Internet Web site the name of any physician or provider of treatment  
services whose liens were stayed pursuant to this section.” Cal. Labor Code  
§ 4615(b). As of the date this declaration was executed, that list of providers was  
nine pages long. It lists only *individual* and natural persons and is titled

1 “Criminally Charged Providers Whose Liens are Stayed Pursuant to Labor Code  
2 § 4615 as of 8/21/2007.” The list contains the names of 160 natural persons. It  
3 does *not* contain the names of any entities or corporations, although many of my  
4 clients are entities or corporations that are medical providers who liens have been  
5 stayed *without any notice*, and who are marked as stayed providers in the  
6 Electronic Adjudication Management System (“EAMS”).

7 6. Overview of Regulations. Paragraph 13 of Judge Levy’s Declaration  
8 is accurate in the recitation of which Labor Code sections and which California  
9 regulations concern cases adjudicated within the workers’ compensation system.  
10 However, her testimony falls short in its description of what those statutes and  
11 regulations permit the lien claimants and the judges to do. Furthermore, Judge  
12 Levy’s account of Labor Code Section 4615 procedures contradicts the workers’  
13 compensation Policy and Procedure Manual, as further explained below, and it  
14 does not accurately depict the regulations associated with Labor Section Code  
15 4615 and their actual application in the field.

16 7. The DOR Process As Procedural Avenue? Paragraph 14 of Judge  
17 Levy’s Declaration is misleading. She indicates that the “DOR [Declaration of  
18 Readiness] process can be used to raise *essentially any kind of issue* before a judge  
19 in workers’ compensation cases.” This statement is not true and overstates what is  
20 permitted in the DOR process. Attached as Exhibit 19 is the form prescribed by  
21 the Board called the “Declaration of Readiness to Proceed.” The DOR requires the  
22 claimant to select from the following options: Mandatory Settlement Conference,  
23 Status Conference, Rating MSC (Mandatory Settlement Conference), Priority  
24 Conference or Lien Conference. There is no category for either a hearing or an  
25 identification of issues that would enable lien claimants to make *any argument at*  
26 *all* related to a stay under Labor Section Code 4615. Moreover, lien claimants  
27 cannot simply decline to complete the DOR form: it is *required* or a hearing will  
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1 not be set. Furthermore, the DOR form requires that the declarant “states under the  
2 penalty of perjury” that he or she is ready to proceed, has attempted to resolve the  
3 dispute and has completed all discovery related to the proposed issue. The DOR  
4 process has historically been used to set lien trials, enter orders on settlements of  
5 liens and to set status conferences and lien conferences. Cross-reference is made to  
6 the Declarations filed concurrently herewith (which I have reviewed), which show  
7 that in all DOR procedures involving stayed lien claimants, the court does nothing  
8 but affirm that the lien is stayed, either because it is on the DIR Public List,  
9 because an employer/insurer asserts that a stay should exist, or because the Judge  
10 pulls out the DIR Secret List and affirms the existence of a stay. In short, Judge  
11 Levy is absolutely wrong when she characterizes the DOR process as permitting  
12 “essentially any kind of issue” to be raised. In short, contrary to Judge Levy’s  
13 claim, the DOR process does not protect lien claimants’ right to make any  
14 argument to the workers’ compensation judges related to Labor Code Section 4615  
15 stays. The cases raised by Judge Levy are primarily “expansion” cases, cases  
16 where the lien claimant does *not* appear on the DIR Public List or there liens are  
17 *not* identified in EAMS as stayed. That handful of cases are vastly different than  
18 the thousands of cases where the liens are stayed and the lien claimant has no  
19 notice and opportunity to be heard.

20 8. The Petition as an Avenue? The second “procedure” that Judge Levy  
21 argues ameliorates Labor Code Section 4615’s disregard for due process involves  
22 the filing of a Petition under 8 Cal. Code Reg. § 10450. Judge Levy states that  
23 “Petitions are like motions in workers’ compensation cases,” contradicting her  
24 earlier statement that “there are no procedures for law and motion hearings in the  
25 same where there are in civil cases.” Compare Levy Decl. ¶ 15 with ¶ 14. She  
26 also states that, “like a DOR, a Petition can be filed on essentially any kind of  
27 issue.” Id. (citing 8 Cal. Code Reg. § 10450(i).) This idea that lien claimants can  
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1 use the Section 104540 petition process to argue against a legislatively mandated  
 2 stay is contradicted by the statute, the regulations, the Policy and Procedure  
 3 Manual, and workers' compensation practice.

4 9. Under the statute, if a lien is "automatically stayed," the Court loses  
 5 jurisdiction, much like when a stay is imposed upon the filing of a bankruptcy  
 6 petition. By its terms, Labor Code Section 4615's legislative mandate indicates  
 7 that the lien "shall" be "automatically stayed." There is no statute, rule, regulation  
 8 or statement in the Policy and Procedure Manual to override a legislatively  
 9 mandated stay.<sup>1</sup>

10 10. Under the regulations, Judge Levy's statement that a petition under  
 11 Section 10450 means that a "petition can be filed on essentially any kind of issue"  
 12 (Levy Decl. ¶ 15) is wholly inaccurate: "all unresolved lien claims and lien issues  
 13 must be heard at the lien conference." Mandelbaum, Matthew D., California  
 14 Worker's Compensation Practice, (CEB 4d: 2017 Update) § 15.76A (citing 8 Cal.  
 15 Regs. § 10770(a)(3) (Payne v. WCAB (Cline) 81 CCC 535 (writ denied; that DOR  
 16 was filed by another lien claimant and did not mention Dr. Payne's lien did not  
 17 excuse his nonappearance at lien trial because § 10770.1(a)(3) requires that all  
 18 unresolved liens be heard at lien conference or trial)); see 8 Cal. Code of Regs.  
 19 § 10771.01(a)(3) ("Unless otherwise expressly stated in the notice of hearing, all  
 20 unresolved lien claims and lien issues shall be heard at the lien conference, whether  
 21 or not listed in any DOR. An agreement to "pay, adjust or litigate" a lien claim or  
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23 <sup>1</sup> As an attempt to resolve some of the issues in this litigation, the DIR has  
 24 advanced new legislation to give the courts some ability to "inquire and determine"  
 25 whether Labor Code Section 4615 applies. The amendment falls far short of solving  
 26 the problem, and again is accompanied by no proposed regulations or changes to the  
 27 Policy and Procedure Manual. In any event, the issue is irrelevant: this Court has  
 28 not been asked to provide an advisory opinion on proposed legislation that has not  
 been enacted, and the proposed legislation contains no emergency provision to  
 hasten its enactment.

1 its equivalent, or an award leaving a lien claim to be adjusted, is not a resolution of  
2 the lien claim or lien issue.”). Therefore, because Section 10771.1(a)(3) requires  
3 that *all* lien issues be heard at the lien conference, it is impermissible to petition at  
4 another time for a determination of a lien issue such as that created by Labor Code  
5 Section 4615.

6 11. Petitions Under Regulation 10450 are utilized, as explained in the  
7 Policy and Procedure Manual, for Petitions for Reconsideration from decisions,  
8 orders or actions taken by a WCALJ. See Policy and Procedure Manual § 1.60.  
9 Because Labor Code Section 4615 lien stays do not result from any decision, order  
10 or action taken by a WCALJ, a Petition for Reconsideration does not provide a  
11 procedure through which a lien stay can be challenged, because with respect to the  
12 WCALJ’s actions, there is simply nothing to be reconsidered. With respect to the  
13 more than 200,000 of liens that the DIR reports have been stayed, I have not found  
14 a single case in which a lien claimant has filed a Petition under Regulation 10450  
15 to challenge its status as a stayed lien claimant.

16 12. The Policy and Procedures Manual provides no indication anywhere  
17 that Regulation 10450 can be used as some sort of a “catchall provision” to bring  
18 up “essentially any issue” before a WCALJ. Indeed, the Policy and Procedures  
19 Manual is quite clear on the point that if a lien claimant files a petition or action  
20 deemed in bad faith, then the WCALJ and the WCAB may impose a sanction of up  
21 to \$2500 under Labor Code Section 5813. Sanctionable conduct includes but is not  
22 limited to the following: (1) “willful failure to comply with a statutory or  
23 regulatory obligation” (Cal. Code of Regs. § 10561(b)); (2) failing to appear at a  
24 lien conference; and (3) filing a pleading without reasonable justification. Labor  
25 Code § 5813. Notably, although Judge Levy speculates that “a lien claimant *could*  
26 file a Petition requesting an adjudication concerning Labor Code 4615” (emphasis  
27 added), despite the institution of stays against the 200,000 lien claims representing  
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1 an aggregate value of over \$1 billion, and notwithstanding Judge Levy’s request to  
2 her Chief Judges to provide her with information about their Section 4615 case  
3 records, she provides *not a single case* in which a party filed a petition under  
4 Regulation 10450 and had a WCALJ agree that the regulation serves as some sort  
5 of a “catchall” available for lien claimants to “adjudicate essentially any issue.”

6 13. Stays in the Policy or Procedure Manual. The Policy and Procedure  
7 Manual has a policy directive concerning “emergency petitions to stay,” which  
8 must be made after notice and a hearing. Policy and Procedures Manual § 1.26.  
9 That provision contains nothing concerning legislatively-mandated or  
10 administratively imposed stays on lien claims. See id. In his or her “Minutes of  
11 Hearing,” the WCJ is required to provide a “disposition order” and if a matter is  
12 taken off calendar or continued, the Policy and Procedural Manual states that “the  
13 reason for such disposition shall be clearly stated on the record.” Policy and  
14 Procedure Manual 1.45 (page 3 of 4).

15 14. The Appellate Process as a Remedy? Judge Levy goes on to explain  
16 that the orders of a WCALJ may be revisited either by a Petition for  
17 Reconsideration or a Petition for Removal.

18 a. Petitions for Reconsideration: Reconsideration is a procedure  
19 that is available for review of a WCALJ’s final order, decision or award. See  
20 Labor Code §§ 5900-5911. The grounds for reconsideration are set out on Labor  
21 Code Section 5903. Although the WCALJ may correct his or her own order, the  
22 deadline for a party to file a Petition for Reconsideration is 20 days from the date  
23 of the service of that order, pursuant to Section 5903 of the Labor Code. Section  
24 5903 permits only 5 grounds for reconsideration. They are: (a) that the appeals  
25 board acted without or in excess of its powers; (b) that the order, decision, or  
26 award was procured by fraud; (c) that the evidence does not justify the findings of  
27 fact; (d) that the petitioner has newly discovered material evidence that he or she

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1 could not, with reasonable diligence, have discovered and produced at the hearing;  
2 and (e) that the findings of fact do not support the order, decision, or award. Cal.  
3 Labor Code § 5903. These categories do not include a challenge to a stay  
4 provision imposed by Labor Code Section 4615, nor do any of the categories  
5 appear to be able to encapsulate this issue. To make matters more complicated,  
6 there are two reasons that it is impossible to calculate the 20-day jurisdictional  
7 period in which a reconsideration petition must be calculated: (1) the lien claimant  
8 receives no notice of when its lien was stayed; and (2) the issuance of a stay is not  
9 a dated court order that bears a judge's signature. In the DIR's guide for persons  
10 seeking to file Petitions for Reconsideration, it is quite clear that to satisfy the  
11 jurisdictional requirements of Labor Code Section 5903, those seeking this form of  
12 relief must include the date that the judge signed the order and then count 20 days  
13 from that date. A true and correct copy of the DIR guide on Petitions for  
14 Reconsideration is attached hereto as Exhibit 20.

15           b. Petitions for Removal. Petitions for removal are governed by  
16 Regulation Section 10843, "Petitions for Removal and Answers." 8 Cal. Code  
17 Reg. § 10843. Again, the petition for removal must be filed "within twenty (20)  
18 days from service of the order or decision, or of the occurrence of the action in  
19 issue." Id. § 10843(a). Because lien claimants are stayed on no specific date that  
20 is revealed to them, there is no date from which to count the jurisdictional  
21 requirement for filing a petition for removal. Moreover, in addition to the  
22 procedural impossibility of filing a petition for removal to address lien stays, such  
23 a petition would be wholly improper (and potentially sanctionable) on the merits.  
24 Petitions for removal may be filed on two possible grounds: (1) that the order,  
25 decision or action will result in significant prejudice; or (2) that the order, decision  
26 or action will result in irreparable harm. Id. The procedural and substantive  
27 standards applicable to Petitions for Removal were not addressed in Judge Levy's  
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1 declaration. Indeed, the Petition for Removal procedure is not an available  
2 procedure for stayed lien claimants because there is no order that would form the  
3 basis for such a Petition.

4 I declare under the penalty of perjury under the laws of the United States of  
5 America that the foregoing is true and correct and that I executed this declaration  
6 in Pomona, California on September 12, 2017.

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8 Victor Korechoff

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**DECLARATION OF LEONARD PINA**

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2 I, Leonard Pina, declare:

3 1. I am over eighteen and not a party to this action. I make this  
4 declaration based on my own personal knowledge. If called as a witness, I could  
5 and would testify competently as follows:

6 2. I am currently employed by MJR Management Services, Inc., in  
7 Alhambra, California, as the Office Manager. My duties include overseeing  
8 hearing representatives and their activities at the Workers' Compensation Appeals  
9 Board. I have worked in the workers' compensation field since 2003.

10 3. I have appeared as a hearing representative before various judges  
11 within California's workers' compensation system. I have appeared in the Santa  
12 Ana workers' compensation courts. Although those courtrooms are somewhat  
13 informal, persons in attendance are required to (and routinely do) sign in on sheets  
14 corresponding to the case in which they intend to appear. In several cases, I have  
15 seen and heard Judge Leviton, who sits in Santa Ana, announce from the bench  
16 that "if you are a lien claimant that is on stay do not sign in." In other words, lien  
17 claimants are being subject to official court orders *not* to sign in and appear at their  
18 lien hearings. The impact of a non-appearance in a lien case is that liens are  
19 dismissed for lack of appearance. Worse yet, some judges have ruled that a lien  
20 claimant who is barred from signing in has voluntarily dismissed his or her (or its)  
21 lien.

22 4. In some cases in which judges have issued payment orders *before* the  
23 enactment of Labor Code Section 4615, carriers have stalled on making the  
24 ordered payments until *after* the enactment of Section 4615, and then refused to  
25 pay altogether. In such cases, I have seen judges then refuse to enforce their own,  
26 pre-Section 4615 orders because of the "automatic stay." The following cases are  
27 just a few examples of such situations:  
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1           a.     In Escobar v. Narajo Investments, Inc., WCAB Case No.  
2 ADJ6742014, ADJ6857599, ADJ68757603, Mary Anne Thompson, Workers’  
3 Compensation Judge, ruled that the lien of the Psychological Center of California  
4 would not be paid, despite the December 14, 2016, issuance of a stipulation and  
5 order to pay. The Psychological Center of California is not on the DIR Public List,  
6 nor has it received notice of any stays issued by the DIR. I am unaware of any  
7 procedure available to the Psychological Center of California to argue against this  
8 stay. The Hearing Report and Minutes of Hearing are attached hereto as Exhibit  
9 21. There are no regulations that address either which entities’ liens are stayed or  
10 the criteria used to stay such liens in cases in which an entity is related in some  
11 way to a charged/indicted natural person that is a medical provider. Nor are there  
12 any regulations that indicate a standard or procedure for challenging a stay  
13 determination under these circumstances. This is primarily because there is no  
14 “determination; or decision – the matter is simply placed “off-calendar” if the  
15 Court believes the stay is in effect, and the lien claimant has no recourse at all.

16           b.     In Murrillo v. YKA Industries, WCAB Case No. ADJ7591000,  
17 Workers’ Compensation Administrative Law Judge Dewayne P. Marshall placed  
18 the unpaid lien of Beverly Hills Magnetic Imaging off-calendar. The Hearing  
19 Report and Minutes of Hearing are attached hereto as Exhibit 22. The Minutes of  
20 Hearing reflect that even though the lien claimant had previously obtained an order  
21 that the lien was settled and should be paid, the judge placed it off-calendar

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1 pursuant to Labor Code Section 4615. Beverly Hills Magnetic Imaging has not  
2 been indicted or charged and is not on the DIR Public List.

3 I declare under the penalty of perjury under the laws of the United  
4 States of America that the foregoing is true and that I executed this Declaration in  
5 Alhambra, California on September 12, 2017.



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8 Leonard Pina

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**DECLARATION OF CHRIS PINKERNELL**

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2 1, Chris Pinkernell, declare:

3 1. I am over the age of eighteen years old and not a party to this action. I  
4 make this declaration based on my own personal knowledge. If called as a witness,  
5 I could and would testify as follows:

6 2. I am a hearing representative for lien claimants in the workers'  
7 compensation system in California. I regularly appear before various workers'  
8 compensation judges and before the WCAB. Every Thursday, I appear before  
9 Judge Robin Leviton in Santa Ana. Since early 2017, Judge Leviton has regularly  
10 and consistently precluded lien claimants from signing in or appearing in any cases  
11 in which their liens are designated as stayed under Labor Code Section 4615.

12 3. Two of the lien claimants for whom I regularly appear include  
13 Firstline Health and First Choice. Although they are not on the Public DIR List,  
14 they are marked as "stayed" in EAMS. In all cases involving these lien claimants,  
15 Judge Leviton has specifically ordered me either not to sign in or (if I have already  
16 signed in) has stricken my appearance from the record. According to what Judge  
17 Leviton has told me, she believes that under Labor Code Section 4615, my lien  
18 claimants have no legal right to appear in her courtroom. It is my understanding  
19 that Judge Leviton believes she is bound by the legislative mandate of Section  
20 4615 and does not have jurisdiction to proceed any further.

21 4. Attached as Exhibit 23 are hearing reports and Minutes of Hearing  
22 that illustrate the above types of situations. In Medrano v. Spectrum Automotive,  
23 WCAB Case No. ADJ8552302, Judge Robin Leviton signed off and approved the  
24 May 11, 2017 in the Minutes of Hearing which states: "Stayed liens cannot pursue  
25 liens which liens do not send rep to WCAB and do not call [defendant]s to  
26 negotiate payment!!" After I signed in to the hearing, my name was ordered  
27 crossed out and Judge Leviton indicated that there would be no appearance noted  
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1 or taken for my client, Firstline Health.

2 I declare under the penalty under the laws of the United States of America  
3 that the foregoing is true and correct and that I executed this Declaration in  
4 Placentia, California on September 12, 2017.



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6 Chris Pinkernell  
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**DECLARATION OF MARTY RENETZKY**

I, Marty Renetzky, declare:

1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify competently as follows:

2. I am an attorney and was admitted to the State Bar of California in 1973. I started and ran Medical Collection Company for 6 years and 6 medical clinics for Dr. Floyd Cord from 1981 through 1983. I started and ran Vista Bay Medical Group until 1991. I started and ran Golden State Auto Appraisal Company for 7 years, and then I started Martin Renetzky, a Professional Law Corporation. I currently run Crestview Medical Collections.

3. No Provision for Ownership, Control or Affiliation: Labor Code Section 4615 does not provide for stays of liens based on ownership of, control by or affiliation with a charged or indicted medical provider.

4. EAMS System: Under California law, EAMS (the "Electronic Adjudication Management System" or "EAMS") is the computerized case management system used by the Division of Workers' Compensation to electronically store and maintain adjudication files and to perform other case management functions." 8 Cal. Code Reg. § 10301(p).

5. Lien Claimant Status: American Allied Diagnostics Medical Group, Inc., is a lien claimant in numerous cases and duly filed lien activation fees pursuant to Senate Bill 863. American Allied Diagnostics Medical Group, Inc., has taken all steps to appropriately document and pursue its liens. This includes filing liens, paying activation fees and appearing at all relevant hearings.

6. No Criminal Charges Pending: American Allied Diagnostics, Inc., has not been charged with or indicted for any crimes related to medical fraud, to my knowledge.

1           7.     No Notice of Stays in Workers’ Compensation Cases: American  
2 Allied Diagnostics Medical Group, Inc. did not receive any notice from anyone  
3 that any of its (filed and pursued) liens were stayed pursuant to Labor Code Section  
4 4615.

5           8.     No Notice of Stays or “Flags” in EAMS System: When EAMS  
6 clerical staff or the unit manager noted in the EAMS system that the liens of  
7 American Allied Diagnostics Medical Group, Inc. were “stayed,” they provided no  
8 notice (automatic or otherwise) to American Allied Diagnostics Medical Group,  
9 Inc. I am describing the process this way based on Chief Judge Paige Levy’s  
10 Declaration and using the word “flags” because that is the word that Judge Levy  
11 indicated was the purpose of the notation in the system that marks the liens as  
12 “stayed.”

13           9.     Liens Are Stayed: Although American Allied Diagnostics Medical  
14 Group, Inc. has not been indicted or charged and appears nowhere on the DIR  
15 Public List, its liens have been stayed. Attached as Exhibit 24 are true and correct  
16 copies of correspondence related to American Allied Diagnostics Medical Group,  
17 Inc.

18           10.    Method to Challenge Stay of Hundreds of Liens of American Allied  
19 Diagnostics Medical Group, Inc.: Contrary to Judge Levy’s declaration, there is no  
20 procedure under California law, California statutes, the California Code of  
21 Regulations or the normal practice and procedure in the workers’ compensation  
22 courts to challenge the stays “in any way, shape or form” so that the liens can be  
23 heard on their merits. For instance, Labor Code Section 4615 states unequivocally  
24 that the liens filed by indicted/charged providers are “automatically stayed.” There  
25 is no procedure for American Allied Diagnostics Medical Group, Inc. to argue that  
26 its liens should not be stayed. There is no differentiation between any tainted liens  
27 or untainted liens – meaning a method of inquiring if the stayed liens were in any  
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1 way related to any pending criminal charges against anyone. This is because the  
2 decision to stay the liens of American Allied Diagnostics Medical Group, Inc.  
3 occurred outside of public view and outside of any judicial process. It is also  
4 because there was never any notice provided of the existence of such stays, nor  
5 was any procedure provided under any California law, rule, regulation or practice  
6 and procedure to challenge such stays.

7 11. Finally, although the stays are in effect, they were not placed into  
8 “stay” status because of any order of a judge. Instead, as Judge Levy explained, the  
9 decision to impose a stay is made by clerical staff in the EAMS unit. Accordingly,  
10 there is no judicial order that would give rise to a motion to reconsider or a petition  
11 for removal.

12 I declare under the penalty of perjury under the laws of the United States of  
13 America that the foregoing is true and correct and that I executed this declaration in  
14 Las Vegas on September 12, 2017.



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17 Martin Renetzky  
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**DECLARATION OF MICHAEL ALLAN RUDOLPH, M.D.**

I, Michael Allan Rudolph, declare:

1. I am over eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I would and could testify competently as follows:

2. I am a medical doctor and a general practitioner. I attended and graduated from Columbia University College of Physicians and Surgeons in 1981, and have been licensed by the Medical Board for the State of California since September 27, 1982.

3. The NPI number assigned to me as a health care provider is 1982624524, and my address of record associated with that number is 2680 Saturn Avenue, Suite 203, Huntington Park, California.

4. I have *not* been charged criminally or indicted for any crime of medical fraud or insurance fraud.

5. There is another Michael Rudolph, who is a pharmacist and whose full name is Michael Jay Rudolph, who has been assigned NPI number 1942499058. Michael Jay Rudolph appears to be a Doctor of Pharmacy with an address of record in Whittier, California. *That* Michael (Jay) Rudolph, as I understand it, is on the DIR Public List as a person who has been indicted for or charged with a crime of medical fraud or insurance fraud; under Labor Code Section 4615, the liens of *that* Michael (Jay) Rudolph are automatically stayed.

6. Status as a Lien Claimant: I have provided years of medical services to injured workers; for a variety of reasons, on some occasions I have not been paid for those medical services. Accordingly, I am a lien claimant in various cases pending in the workers' compensation system. As a lien claimant, I have pursued payment on those liens, either directly through a manager or indirectly through the efforts of the United States Bankruptcy Trustee, David Goodrich, because the

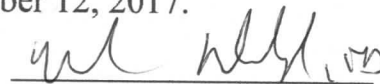
1 manager I appointed for a period of time is now in Chapter 11 bankruptcy  
2 proceedings.

3 7. Stay of Liens: I understand that the DIR has misidentified the liens  
4 for the services I provided as “stayed,” even though *I am not the Michael Rudolph*  
5 who was indicted or charged for medical or insurance fraud and I am not on the  
6 Public DIR List. Enclosed as Exhibit 25 are screenshots from the EAMS systems  
7 showing that the liens that pertain to the medical services that I rendered have been  
8 stayed in the system. There is no basis whatsoever for a stay of liens against me.

9 8. Impact and Irreparable Harm: I am a lien claimant, having provided  
10 years of medical services to injured workers. Because the income I regularly and  
11 ordinarily earn from the processing and finalization of liens is now not available to  
12 me, I have suffered a severe economic impact that affects my ability to continue to  
13 treat injured workers on a lien basis.

14 9. Procedure for Correction of Mistaken Identity: I have inquired of the  
15 Trustee, collectors and hearing representatives and have learned that there does not  
16 appear to be any system or procedure to address the fact that I am the victim of  
17 mistaken identity. No judge has made an order with respect to me, so there is no  
18 order for which I can request reconsideration, and there is no way for me to file a  
19 petition for removal. I have no remedy, no way to address what appears to be an  
20 administrative shutout of *all* my liens from the workers’ compensation system.  
21 Quite simply, there is no process that I can pursue, no form that I can file and no  
22 court that I can avail myself of within the workers’ compensation system.

23 I declare under the penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and accurate and that I executed this declaration  
25 in Huntington Beach, California on September 12, 2017.

26 

27 Michael Rudolph

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**DECLARATION OF SCOTT SCHOENKOPF**

I, Scott Schoenkopf, declare:

1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify competently as follows:

2. I am Managing Director of Liening Edge. Liening Edge employs and engages hearing representatives to pursue the rights of lien claimants throughout the Workers' Compensation Appeals Boards in California. Liening Edge represents medical providers in the system making appearances; we employ both in-house hearing representatives and contractors who appear before Worker's Compensation Administrative Law Judges and the Workers' Compensation Appeals Board across the State of California.

3. Firstline Health: Liening Edge represents a lien claimant named Firstline Health for board appearances. On the Statement of Information submitted to the Secretary of State, the only officer of Firstline Health is listed as "David R. Johnson." Dr. Johnson is designated as the Chief Executive Officer, the Secretary and the Treasurer of Firstline Health.

4. Dr. Johnson was first indicted on September 15, 2015, nearly 2.5 years ago. In March 2017, all charges against Dr. Johnson were dismissed. As a result, Dr. Johnson is no longer under any criminal charges or indictment. Attached as Exhibit 26 to this declaration is the court docket noting the dismissals.

5. Despite the Dismissal of the Charges, All Liens Are Stayed: Nevertheless, and despite the dismissal of all charges against Dr. Johnson (on which the stay was presumably based), the DIR has noted in the EAMS system that all liens of Firstline Health are stayed pursuant to Labor Code 4615. Attached as Exhibit 27 to this declaration are the screenshots from EAMS showing that hundreds of liens of Firstline are marked as "stayed." The "stay" status note in the

1 system says that this means “STAY – Liens subject to LC 4615(a).”

2 6. The Minutes of Hearing Affirm the Stay and Lack of Procedure to  
3 Argue Against It: Liening Edge has sent hearing representatives to pursue the  
4 liens of Firstline Health. Both before *and* after all the charges against Dr. Johnson  
5 were dismissed, the WCALJs have consistently ruled that the liens are stayed, as  
6 shown in the following cases:

7 a. Zaragoza v. McDonald’s Restaurant, WCAB Case No.  
8 ADJ8768073, Minutes dated June 1, 2017, signed by Peter M. Christiano,  
9 Workers’ Compensation Administrative Law Judge (“Firstline currently subject to  
10 a stay as of 1/1/2017.”). The Minutes of Hearing are attached as Exhibit 28.

11 b. Guerrero, Rosa v. CL Investors LP, WCAB Case No.  
12 ADJ9132724. Minutes dated June 16, 2017, signed by Robert Norton, Presiding  
13 Workers’ Compensation Administrative Law (“Stayed” as to Firstline). The  
14 Minutes of Hearing are attached as Exhibit 29.

15 c. Mendoza v. Hilarios, State Farm, WCAB Case No. 9406950,  
16 Minutes dated June 13, 2017, signed by Workers’ Compensation Judge Edelberg  
17 (“Firstline Health is stayed”). The Minutes of Hearing are attached as Exhibit 30.

18 d. Arroyo v. Wireless PCS; Zurich North America, WCAB Case  
19 No. ADJ9685406, Minutes dated June 12, 2017 (“Firstline Opposed OTOC stating  
20 stay should be lifted because of change in criminal case,” but taking case off  
21 calendar). The Minutes of Hearing are attached as Exhibit 31.

22 e. Garcia v. Warren AG Services, WCAB Case No. ADJ8849428,  
23 Minutes dated June 27, 2017 (page 2), signed by Robert Norton, Presiding  
24 Workers’ Compensation Judge (“stayed” as to Firstline). The Minutes of Hearing  
25 are attached as Exhibit 32.

26 f. Rodriguez v. All Cartage Transport, WCAB Case No.  
27 ADJ2330910, Minutes of Hearing dated July 13, 2017, signed by Workers’  
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1 Compensation Judge (“Frontline Medical stayed per 1160”). The Minutes of  
2 Hearing are attached as Exhibit 33.

3 i. “Firstline Health STAYED.” William Carero, Workers’  
4 Compensation Administrative Law Judge, Anguiano v. AIG, WCAB Case No.  
5 ADJ8274169, Minutes dated June 30, 2017. The Minutes of Hearing are attached  
6 as Exhibit 34.

7 j. “Firstline has stay.” Robert T. Hielle, WCAB Case No. 9245754,  
8 Bernal v. South Bay Driving School; State Fund, WCAB Case No. 9245754,  
9 Minutes dated July 8, 2017. The Minutes of Hearing are attached as Exhibit 35.

10 k. “Firstline Health is currently on stay.” Angel Barnes, Workers’  
11 Compensation Judge, Iribe v. Andre Landscape, WCAB Case No. 9572613,  
12 Minutes dated July 11, 2017. The Minutes of Hearing are attached as Exhibit 36.

13 l. Flores v. American Sample, WCAB ADJ9739572, Minutes of  
14 Hearing signed by Workers’ Compensation Judge Robin Beth Leviton dated April  
15 5, 2017 (“First Line and filed lien; lien is currently stayed.”). The Minutes of  
16 Hearing are attached as Exhibit 37.

17 m. Pineda v. Rosanna, Inc. WCAB Case No. ADJ8055681, Minutes of  
18 Hearing dated April 3, 2017, signed by Workers’ Compensation Administrative  
19 Law Judge Marco Famigletti (“First Line – stayed”). The Minutes of Hearing is  
20 attached as Exhibit 38.

21 n. Villa v. Ahtayebat Market, WCAB Case no. ADJ0542554, Minutes of  
22 Hearing dated April 24, 2017, signed by Workers’ Compensation Judge Jeremy  
23 Clift (“First Line indicated as stayed in EAMS”). The Minutes of Hearing are  
24 attached as Exhibit 39.

25 There are hundreds of Minutes of Hearing that set forth the same results as  
26 listed above. For the sake of brevity and to avoid inundating the record and  
27 docket, I have provided a representative sampling of the results as reflected in the  
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1 Minutes of Hearing.

2           6.     Correspondence to DIR and Judges Is Not a “Process”: In Judge  
3 Levy’s Declaration, she indicates that emails or letters to DIR officials or judges  
4 might result in a prompt resolution. I attempted that route, corresponding with  
5 Mark Fudem, Associate Chief Judge. After Judge Fudem acknowledged that the  
6 indictment of “Dr. Johnson is dismissed,” he justified the EAMS stay of Firstline  
7 Health’s liens with the unsupported claim that “Firstline is identified with severally  
8 criminally charged providers.” Judge Fudem did not provide an answer to my  
9 question about what it means to be “identified with” or how the criteria for such a  
10 determination are related to or consistent with Labor Code Section 4615. Attached  
11 as Exhibit 40 is a true and correct copy of my correspondence with Judge Fudem.

12           7.     Enciso Was an “Expansion Case”: Enciso is not a case in which the  
13 lien claimant Firstline Health was stayed and availed itself of some sort of due  
14 process to remove the stay. Instead, Enciso arose out of an attempt to *expand* the  
15 reach of Labor Code Section 4615 beyond the Public DIR List to Firstline, a lien  
16 claimant not on that list. That case also revealed the existence of the Secret DIR  
17 List when the Workers’ Compensation Judge revealed he had in his possession a  
18 different list, consisting of an Excel spreadsheet that included Firstline and more  
19 lien claimants than were on the Public DIR List. In Judge Levy’s declaration, she  
20 discusses Enciso v. Toys “R” Us, WCAB Case No. ADJ9447000. Firstline Health  
21 was initially *not* a provider that was listed on the Public DIR List as “stayed.”  
22 Instead, the record reflects that the WCALJ pulled out an Excel spreadsheet (which  
23 has never been published by the DIR) and concluded that Firstline’s lien was  
24 stayed. Accordingly, in this single case (which is far different than cases involving  
25 unchallengeable clerical stays), a judge issued an order that was subject to review.  
26 In numerous other cases, there is no order to be reviewed—only an alleged Excel  
27 spreadsheet not disclosed to the public (and of which no notice is provided) or a  
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1 clerical marking in the EAMS system—and the regulations and statute provide no  
2 means to challenge such actions.

3 8. The only “process” of which Firstline Health was able to avail itself  
4 was that of a letter that I wrote to George Parisotto, the Administrative Director,  
5 explaining the lack of due process and the lack of any reasoning for the lien stays  
6 as to Firstline. In that letter, I specifically discussed the Enciso case. In Judge  
7 Levy’s declaration (Paragraph 14), she says that a mistakenly identified lien  
8 claimant may “simply write a letter” and “[t]here is no reason of which I am aware  
9 for why the Administrative Director would not promptly correct an error brought to  
10 his attention.” I actually wrote such a letter, but I received no response. Nor,  
11 contrary to Judge Levy’s speculation, was the error “promptly corrected.” There is  
12 no means to address either the error or Mr. Parisotto’s failure to respond to my  
13 letter. In short, there is no process available to Firstline to challenge the “stay”  
14 against its hundreds of liens representing its provision of medical services over a  
15 period of many years to injured workers. Given that the charges against Dr.  
16 Johnson have already been dismissed and the liens remain stayed, it appears that  
17 the stay is indefinite in duration and is, in effect, both a complete denial and an  
18 effective dismissal of those liens. Attached as Exhibit 41 is a true and correct copy  
19 of the letter I sent to Mr. Parisotto.

20 I declare under the penalty of perjury under the laws of the United States of  
21 America that that the foregoing is true and correct and that I executed this  
22 declaration in Corona, California on September 12, 2017

23 

24  
25 Scott Schoenkopf

**DECLARATION OF PETER YEH**

I, Peter Yeh, declare as follows:

1. I am over the age of eighteen and not a party to this action. I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify competently as follows:

2. I am the Co-Chief Operating Officer of QBC. I am responsible for certain management operations of QBC and as such, have the necessary knowledge to provide the information provided below.

3. QBC is an expert in workers' compensation medical billing and collections. We employ and engage a team of collectors and hearing representatives to appear before the Workers' Compensation courts in the State of California and before the Workers' Compensation Appeals Board. We also train our teams in the proper legal interpretation of the applicable regulations and statutes. We are contractually engaged by various lien claimants to collect on their liens; this includes maintaining records concerning individual cases, processing the appropriate paperwork or documents, and deploying hearing representatives to the various courts and to the Board.

4. One of our clients is First Choice Healthcare Medical Group. First Choice Health is a corporation formed in the State of California. Its Chief Executive Officer is Saeid Homayoun, a medical doctor who to my knowledge, has not been charged with any crime related to medical fraud. Attached as Exhibit 42 are the Statements of Information from the State of California Secretary of State website that show the identity of the officers/agents of First Choice Health. Neither Dr. Homayoun nor First Choice Health are on the DIR Public List. With respect to the lien files that QBC is handling, we have not received any notice from the DIR that First Choice Health is subjected to any stay of its liens. I am not aware of any court ruling that has held that any indicted or charged provider is an



1 owner or alter ego of First Choice Health.

2 5. Nevertheless, hundreds of liens of First Choice Health are “stayed” in  
3 the EAMS system. Below is a sampling of the Minutes of Hearing and Hearing  
4 Reports that reflect the existence of the stay, along with the fact that any of First  
5 Choice Health’s lien claims are merely taken off-calendar. In some cases, the  
6 Workers’ Compensation Judge makes it clear that the hearing representatives are  
7 not entitled to participate in trials, may not sign in, are barred from making any  
8 appearance or even entering the courtroom, and/or are not even permitted to return  
9 to court until unspecified criminal charges are resolved. It is unclear from these  
10 documents whose criminal charges must be resolved for these matters to come off  
11 of “stay” status. There does not appear to be a meaningful way to access the courts  
12 or the DIR to explain why the stay should not be imposed. Below are the  
13 summaries of the Minutes of Hearing (of which the Court may take judicial notice)  
14 and the Hearing Reports, which are reports prepared by hearing representatives on  
15 each cases and which constitute records of regularly conducted activities and are  
16 kept in the ordinary course of the business of QBC, as it was the regular practice of  
17 QBC to rely on these reports for a record of what transpired in the courts. Fed. R.  
18 Evid. 803(6).

19 a. Stance v. Red Vans Management Services, Inc., WCAB Case No.  
20 ADJ8693751, Hearing Report; Minutes of Hearing dated March 2017, signed by  
21 Workers’ Compensation Judge Jennifer Kaloper Bergin (“remaining liens are  
22 stayed at this time”). Attached as Exhibit 43 are the relevant documents.

23 b. Yicsy v. Stride Rite Children’s Group, WCAB Case No.  
24 ADJ8964121, Hearing Report for lien conference held on May 3, 2017, at which  
25 the Workers’ Compensation judge informed the hearing representative that “we  
26 cannot attend unless stay is lifted.” Attached as Exhibit 44 are the relevant  
27 documents.

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c. McIntyre v. Kelly Services, WCAB Case no. ADJ9022025, Hearing Report (case taken off-calendar due to “providers state [sic] s/b stay”); Minutes of Hearing, dated June 12, 2017 (taking case off calendar because subject to stay). Attached as Exhibit 45 are the relevant documents.

d. Shelton v. Monique’s Adult Residential Care dba Monica A. Fenton, WCAB Case No. ADJ9068405, Hearing Report dated January 18, 2017 (reporting that defendants raised issue of stay as to lien claimant First Choice and Court’s response was that “judge has no jurisdiction; only thing that can take place is to be taken off-calendar”); Minutes of Hearing dated January 18, 2017, signed by Workers’ Compensation Administrative Law Judge Nina C. Munoz (taking case off-calendar). Attached as Exhibit 46 are the relevant documents.

e. Mata Gomez v. La Peer Beauty, WCAB Case No. ADJ9205368, Hearing Report dated July 12, 2017 (reporting case taken off-calendar by Judge because “First Choice is stayed”); Minutes of Hearing, dated July 12, 2017, signed by Workers’ Compensation Administrative Law Judge Clint Federson (taking case off-calendar). Attached as Exhibit 47 are the relevant documents.

f. Cruz v. Alpha Structural, Inc., WCAB Case No. ADJ9194185, ADJ9194083, ADJ9194100, Hearing Report dated July 3, 2017 (“[due] to the stay we do not participate on [lien] trial [due] to the stay”). Attached as Exhibit 48 are the relevant documents.

g. Smith v. Multi-Cable, ADJ9024044, Minutes of Hearing, dated March 16, 2017 (“First Choice is stayed currently”). Attached as Exhibit 49 are the relevant documents.

h. Montano v. Home Express Delivery Service, WCAB Case no. ADJ9447448, Hearing Report for trial dated March 15, 2017, per Workers’ Compensation Judge Jennifer Kaloper-Bersin, First Choice “cannot sign in per

1 WCJ as we have a stay; no offers; no MOH [Minutes of Hearing] available”).

2 Attached as Exhibit 50 are the relevant documents.

3 i. Espana v. The Wags Club, WCAB Case No. ADJ9499881,  
4 ADJ9699900, Minutes of Hearing, dated March 15, 2017, signed and modified by  
5 Workers’ Compensation Administrative Law Judge David L. Seymour (crossing  
6 out words “Clarification whether First Choice is stayed...”). Attached as Exhibit  
7 51 are the relevant documents.

8 j. Todd v. Ross Stores, WCAB Case No. ADJ8941943, Hearing Report  
9 dated July 14, 2017 (reporting that “provider has stay per EAMS” and judge took  
10 matter off-calendar); Minutes of Hearing dated July 14, 2017, signed by Workers’  
11 Compensation Judge Edelberg (taking lien off-calendar). Attached as Exhibit 52  
12 are the relevant documents.

13 k. Orozco v. California Community news, ADJ8959398, Hearing Report  
14 dated July 24, 2017 (reporting “parties set for lien trial, we would not participate”).  
15 Attached as Exhibit 53 are the relevant documents.

16

17 I declare under the penalty of perjury under the laws of the United States and  
18 that I executed this Declaration in Los Angeles, California on September 12, 2017.

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20 \_\_\_\_\_/s/ Peter Yeh\_\_\_\_\_

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Peter Yeh

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