

**STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION  
WORKERS' COMPENSATION APPEALS BOARD**

**Idahirma Yero, et al.,**

*Applicant*

vs.

**Elite Personnel; California Insurance  
Guarantee Association, et al.,**

*Defendants.*

**Premier Medical Management Systems (aka  
Delta Management Group, DMG Premier  
Management, Premier Medical and Premier  
Billing) and various Lien Claimant Providers  
(aka Premier Providers)**

*Lien Claimant and  
Real Party in Interest,*

**Case No. ADJ3099625  
VNO0406036  
(Consolidated Master File)**

**OPINION ON DECISION**

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**Notes:**

1. For purpose of this decision when the term Premier is used, it is defined as Premier Medical Management Systems, Inc. When the term Premier Providers is used, it is defined as the lien claimants that are named in the Premier consolidation. When the term Premier Executives is used, it refers to the two executives of Premier Medical Management Systems, Inc., David Wayne Fish and Birger Greg Vacino. When the term defendant's is used, it refers to all insurance carriers, all self-insured employers and CIGA, who are parties to the consolidation.

2. The legal file on the issues submitted to this court as set forth below and in the minutes of hearing of October 7, and December 8, 2010 only exists in paper and no EAMS file exists for these issues.

3. The legal file consists of 4 boxes. Box 1 is the legal file containing the minutes of October 7, and December 8, 2010 and all exhibits and some of the briefs and points and authorities. Box 2 is the legal file containing the Petitions for Reconsideration appealing the orders of dismissal of the liens with prejudice, the final briefs and points and authorities and objections to evidence. Box 3 contains additional briefs and arguments and Box 4 contains a cross section of the liens that are the subject of this consolidation.

#### **Motions to Strike Evidence:**

Both sides have made motions to strike certain evidence. The court after reviewing those objections, other than the two lien exhibits never received though offered into evidence, denies all motions to strike and the objections will be applied to the weight of the evidence and not the admissibility of the evidence. The weight that was given any piece of evidence was for the most part discussed in this Opinion on Decision as to what evidence the court relied on in coming to its conclusions. The motion to strike is granted as to the missing items and those exhibit numbers are removed from the record.

#### **Issues:**

1. Did the court have jurisdiction to alter, amend, clarify, vacate, rescind, interpret, or do anything else other than exercise enforcement of the orders that issued on 9/24/2009, 10/21/2009, 11/14/2009 and 12/3/2009?
2. How did, or did the orders of on 9/24/2009, 10/21/2009, 11/14/2009 and 12/3/2009 affect the order of 9/24/09?

3. Did David Wayne Fish and Briger Gregory Vacino have the authority to dismiss the liens of Premier and various Premier Providers?
4. Can defendants obtain costs and sanctions against any party that has been previously dismissed as a party in this consolidation?
5. Should Riley and Reiner be relieved as attorneys of record for Premier and various Premier Providers?
6. Did the dismissal order of 9/24/09 violate the Labor Code and/or due process rights of Premier and the Premier Providers, thus rendering the order invalid?
7. Were the Premier Representatives acting under duress and/or conflict of interest when they agreed to dismiss the lien of Premier and various Premier Providers?

**Facts:**

On June 7, 2004 this court granted the first of several petitions to consolidate and stay proceedings relating to the liens of Premier and its Premier Providers filed by various defendants. This consolidated case involves seventy million dollars in liens (parties' estimate of value of the liens) generated by Premier and the Premier Providers prior to October 2004.

Premier ceased doing business in October of 2004. All liens were generated by Premier and the Premier Providers prior to October 2004. The written agreements between Premier and the Premier Providers provided that Premier served as billing and collection agent for all liens. Upon expiration of the agreement Premier was to continue to bill and collect for services provided during the term of the agreement. Premier did in fact continue to represent Premier and the Premier Providers after October 4, 2010 in proceedings before the WCAB for collection of the liens of Premier and the Premier Providers.

The two principals of Premier Medical Management Systems, Inc. were David Wayne Fish and Birger Greg Vacino. These two principals of Premier Medical Management Systems, Inc., David Wayne Fish and Birger Greg Vacino, were charged in a criminal complaint in Los Angeles County Superior Court for activities involving their role as principals in Premier.

Premier and the law firm of Riley and Reiner represented Premier and the Premier Providers in these consolidated proceedings. (See further discussion below) Riley and Reiner entered their appearance as attorneys of record for Premier and the Premier Providers in the consolidated case. Following the order granting consolidation of June 7, 2007 this court granted several more petitions to consolidate and stay proceedings relating to Premier and its Premier Providers. Following the granting of the consolidation, litigation proceeded for several years with Premier and Premier Providers challenging the order of consolidation and stay. This court denied all those motions, and several petitions for reconsideration and removal were filed as well as one writ of review all of which were denied.

On December 29, 2004 defendants filed a formal demand that Riley and Reiner disclose the identity of the Premier Providers they represented in the consolidated proceedings. On June 1, 2006 this court issued an order that Riley and Reiner was to send a letter to all Premier Providers to establish which of the Premier Providers were represented by Premier and Riley and Reiner in the consolidated case, and also had Premier provided collection services for that lien claimant and to establish if the Premier Providers were currently represented by Premier and Riley and Reiner for collection of their liens and representation in the consolidated hearing. This court ordered Riley and Reiner to produce a list with a "yes" or "no" next to each Premier Provider as to whether they were represented by Premier and Riley and Reiner in this consolidation.

In response to that order Riley and Reiner filed and served three letters dated July 3, 2006, July 6, 2006 and October 17, 2006 (now defense exhibits in this consolidation) disclosing the names of the Premier Providers that were represented in the consolidation by Premier and Riley and Reiner.

Two civil suits filed by Premier against some of the defendants based on allegations involving their conduct in defending against the liens of Premier and the Premier Providers. The two civil law suits were ultimately dismissed.

The matter proceeded to the discovery stage and several motions to produce were issued by this court following hearings before a court-appointed discovery master. Several thousand documents were produced and discovery was never completed.

On June 14, 2004 and September 9, 2005 Riley and Reiner, in separate Premier consolidations involving the liens of Premier and the Premier Providers and Zenith Insurance Company (Alvarez v. Fletcher Metals and Zenith Insurance, (VNO 0426482) entered into stipulations and order of removal, consolidation, withdrawal and dismissal with prejudice of requests for the allowance of liens between Premier and the Premier Providers and Zenith Insurance Company.

Premier executives David Wayne Fish and Birger Greg Vacino, as part of a plea bargain agreement in the criminal case against them in Los Angeles County Superior Court, signed a stipulated agreement agreeing to a dismissal with prejudice of all liens of Premier and the Premier Providers identified by Riley and Reiner as being represented by Premier and Riley and Reiner in the WCAB consolidated Yero case. The agreement contained a stipulation that David Wayne Fish and Birger Greg Vacino had the authority to dismiss the liens of Premier and the Premier Providers. The agreement was part of a plea bargain in the criminal case of People v. Premier Medical Management Systems in Los Angeles County Superior Court. Defendants filed and served the request for dismissal of all liens with

prejudice with this court along with the stipulated agreement in the criminal case that the Premier Executives had agreed to the dismissal with prejudice of all the liens of Premier and the Premier Providers outlined in the agreement.

The court, after receipt of the request for dismissal and the stipulation agreeing to the dismissal with prejudice of all liens as outlined in the agreement issued an order on September 25, 2009 dismissing the liens with prejudice as set forth in the stipulation in the criminal case. The order of dismissal with prejudice of the liens of Premier and the Premier Providers was based solely on the agreement that was contained in the criminal plea bargain in Los Angeles Superior Court.

Following the issuance of that order Petitions for Reconsideration were filed by various Premier Providers. On October 21, 2009, this court issued an order pursuant to WCAB Rule 10859 vacating and rescinding the order only as to those Premier Providers who filed a timely Petition for Reconsideration based on the fact the court was of the opinion the Premier Providers who filed the Petitions for Reconsideration were entitled to an evidentiary hearing on the issues raised in their Petitions for Reconsiderations. A clerical error was brought to the court's attention on or about November 4, 2009 that two Premier Providers were left off the original order vacating pursuant to rule 10859, even though they had timely filed Petitions for Reconsideration. An amended order was issued adding the two additional lien claimants on November 4, 2009. In the court's opinion this amended order was intended to and did relate back to the original order, as it was issued after the 15 days period provided for in WCAB rule 10859. The sole purpose of the order was to add two additional lien claimants, who had timely Petitioned for Reconsideration, but were left off the original order because of a clerical error in the order vacating pursuant to WCAB rule 10859.

A second clerical error was brought to the court's attention on or about December 3, 2009 that three additional Premier Providers were left off the original order vacating pursuant to rule 10859 and

the amended order, even though they had timely filed Petitions for Reconsideration. An additional amended order was issued adding the three additional lien claimants on December 3, 2009. In the court's opinion this amended order was intended to and did relate back to the original order as it was issued after the 15 days period provided for in rule 10859. The sole purpose of the order was to add three additional Premier Providers, who had timely Petitioned for Reconsideration, but were left off the original order due to clerical error to the order vacating pursuant to WCAB rule 10859.

After several hearings, the matter was set for trial on October 7, 2010 before this court. Issues were framed and the matter was continued to a trial date of December 8, 2010, to create an evidentiary record. At that hearing various documents were admitted into evidence and the parties submitted the issues on the record subject to objection by each side to the admitted evidence and additional argument and points and authorities.

The parties were given until January 18, 2011 to submit objections to the evidence and additional argument and points and authorities. The parties between December 8, 2010 and January 18, 2010 submitted various objections, arguments and points and authorities. The matter stood submitted on the record on January 18, 2011 on the issues outlined above and this court now issues the following opinion on decision and decision on those seven issues.

#### **Decision:**

1. Whether the court has jurisdiction to alter, amend, clarify, vacate, rescind, interpret, or do anything else other than exercise enforcement of the orders that issued on 9/24/2009, 10/21/2009, 11/14/2009 and 12/3/2009? A number of lien claimants filed timely Petitions for Reconsideration from the order of dismissal of 9-24-09. The court after receiving the Petitions for Reconsideration felt due process required the Premier Providers be given their day in court to present evidence on the validity of

the stipulation that formed the basis of the order of dismissal. This court applied rule 10859 and issued an order vacating only as to those lien claimants who timely appealed the order. The order remained in effect as to all Premier Providers who chose not to and did not file Petitions for Reconsideration. This court was subsequently notified on two occasions that some Premier Providers, who timely filed Petitions for Reconsideration, were left off the original order vacating pursuant to Rule 10859 due to clerical error and mistake by this court. On two occasions amended orders were issued adding these additional Premier Providers. In the opinion of this court these two amended orders related back to the original order and merely added the additional Premier Providers to the original order because they were omitted from the original order issued pursuant to WCAB rule 10859 because of a clerical error by this court. In the opinion of this court all three orders are valid, timely and merely added additional Premier Providers to the order to correct the clerical error. The law favors decisions based on the merits and disfavors a denial of a decision on the merits because of mistake or operation of law.

Defendants argue that the two amended orders supersede the original order and therefore result in the WCAB having no jurisdiction over any of the liens and that all liens are dismissed because the subsequent orders superseded the original order and were not appealed. It is the opinion of the court, though the court admits the orders could have been drafted more articulately, that the two orders do not supersede the original order but amend the original order and relate back to the original filing so as to be timely. That was the intent of this court. To interpret these orders otherwise would deprive the Premier Providers of a decision on the merits of their timely appeals. Defendant's argument that the subsequent orders superseded the original order cannot be accurate, in the opinion of this court, because that was not the intent of this court. If, as defendants argue, the amended orders superseded the original order, the orders would not relate back and therefore would be untimely. If that were the case the original order would be valid and the subsequent two invalid orders as not being timely would not have disposed of the



timely filed Petitions for Reconsideration which would then be still pending before the WCAB. Those Petitions for Reconsideration should not in the opinion of the court be dismissed by operation of law and should be decided on the merits and therefore are still pending before the WCAB for action. This would not, in this court's opinion, be a logical result. In the opinion of this court the first order is valid and vacated the order of dismissal as to those Premier Providers who timely filed a Petition for Reconsideration and that order became final. The two subsequent orders amending the first order to add additional lien claimants, who timely filed Petitions for Reconsideration, but were omitted from the original order due to clerical error, relate back to the original filing and do not supersede the original filing and result in vacating the order of dismissal as to those Premier providers. The court and the WCAB have jurisdiction to determine the validity of the dismissal as to all lien claimants who timely filed Petitions for Reconsideration and who the court properly and timely used rule 10859 to vacate the order of dismissal. This court has jurisdiction to decide those issues raised by the parties in this case and by this Opinion on Decision and Finding and Order makes the following decisions on the merits on those issues. The court, based on orders vacating pursuant to WCAB rule 10859, had jurisdiction to decide issues three through seven as outlined above and issues the decision on the merits as set forth below.

2. How did, or did the orders of 9/24/2009, 10/21/2009, 11/14/2009 and 12/3/2009 affect each order of 9/24/09? This issue was decided in paragraph one above and the basis for the opinion of this court on that issue are contained in the paragraph above. As set forth in paragraph one above the Premier Providers timely filed Petitions for Reconsideration from the order of dismissal of the liens and the court properly applied Rule 10859 to vacate the orders as to those Premier Providers only who had filed a petition for reconsideration. It was the intent of this court that the orders of dismissal with prejudice remain in effect as to all Premier Providers who did not file a timely Petition for

Reconsideration. After the original order issued the court on two occasions learned of clerical errors, i.e., that some Premier Providers, who had timely filed Petitions for Reconsideration, were left off the original order and thus, the Court issued amended orders adding the additional Providers. In the opinion of this court those amended orders related back to the original order and added the additional Premier Providers to the original order. The amended orders were not intended to and did not supersede the original order as is argued by defendants. The court based on the original order vacating and the amended orders vacating pursuant to WCAB rule 10859 has jurisdiction to decide issues three through seven as outlined above and issues the decision on merits as set forth below

3. Did David Wayne Fish and Briger Gregory Vacino have the authority to dismiss the liens of Premier and various Premier Providers? The liens can be divided into three groups on this issue.

The first group consists of the liens that were dismissed with prejudice by the order of dismissal of September 25, 2009 based on the stipulation in the criminal case and no timely Petitions for Reconsideration were filed by the Premier Providers. The second group consists of the liens in which the named Premier Providers as listed in the lien is Premier and not one of the Premier Providers even though the treatment was rendered by a Premier Provider and a timely Petition for Reconsideration was filed and the order was vacated pursuant to WCAB Rule 10859. The third group consists of the liens filed in the name of the Premier Providers by Premier and a timely Petition for Reconsideration was filed and the order was vacated pursuant to WCAB Rule 10859.

Group one, as indicated above, consists of the liens of the Premier Providers that were dismissed with prejudice by the order of dismissal based on the stipulation in the plea bargain in the criminal case and no appeal was timely filed or no appeal at all was filed. As to those Premier Providers, as discussed in this opinion and decision (six below), a final order of dismissal issued and was not timely appealed and thus has become final and therefore those liens are already dismissed with prejudice. Further as

discussed in this opinion and decision (six below) there is no basis to set aside that order or to declare that order is somehow void on its face based on the facts of this case. The Premier Providers' failed in their burden of proof on that issue and in fact no evidence or legal basis exists based on the facts of this case to find the order void or to set aside the order of dismissal as to any Premier Provider who failed to timely appeal the order of dismissal with prejudice. These liens are dismissed and remain dismissed. The order of dismissal with prejudice as to these Premier Providers is final and these liens are and have been dismissed.

Group two consists of the liens in which the lien claimant as listed in the lien is Premier even though the treatment was provided by a Premier Provider. These liens, on the green lien form, list Premier as the lien claimant. As such the principals of Premier had the power to dismiss these liens as Premier was the lien claimant and not any of the Premier Providers. When the green lien forms listed Premier as the lien claimant, no matter who provided the treatment, the lien legally belongs to Premier as they are listed as the lien claimant and they have the authority and the power to dismiss those liens. In addition, these liens would be dismissed with prejudice as Premier had the authority to dismiss the lien based on the same facts and opinion as contained in the discussion as to the liens in group three, discussed below.

Group three consists of the liens filed in the name of the Premier Providers. This group of liens have the following two issues: Issue one: Was the agreement for Premier to handle collection of the liens for the various Premier Providers still in effect on the date the stipulation dismissing the liens with prejudice was signed in the criminal case and on the date the liens were dismissed by this court on September 25, 2009? Issue two: If the agreement was in effect, did Premier have the authority to dismiss the liens of the Premier Providers with prejudice?

Issue one: Was the agreement for Premier to handle collection of the liens for the various Premier Providers still in effect on the date the settlement agreement was signed in the criminal case and on the date the order of dismissal with prejudice issued by this court?

A Petition to Consolidate was filed by various defendants to consolidate and litigate the liens of Premier and Premier Providers. Riley and Reiner entered their appearance on behalf of Premier and Premier Providers in the consolidation. The record was clear that Riley and Reiner represented Premier in the consolidation but it was unclear which of the Premier Providers continued to be represented by Premier and their Attorney Riley and Reiner for the purpose of collection of their liens and to represent them as to all other issues that arose in the consolidated case. On June 1, 2006, this court issued an order that Riley and Reiner were to send a letter to all Premier Providers to establish which of the Premier Providers were represented by Premier and Riley and Reiner in the consolidated case. The letter was to establish that Premier provided collection services for that lien claimant in the past and was the Premier Provider was currently represented by Premier and their attorney Riley and Reiner for collection of their liens and all other legal issues in the consolidated case. This court ordered Riley and Reiner to produce a list with a "yes" or "no" next to each Premier Provider as to whether they were represented by Premier and Riley and Reiner in this consolidation.

In response to that order Riley and Reiner filed and served three letters dated July 3, 2006, July 6, 2006 and October 17, 2006 (now defense exhibits in this consolidation) disclosing the names of the Premier Providers that were represented in the consolidation by Premier and Riley and Reiner. These three letters amount to a stipulation and letter of representation that in the consolidated case Premier and their attorney Riley and Reiner were representing those Premier Providers listed in the three letters in the consolidation and for the purpose of collecting their liens and all other legal issues. These three letters are conclusive evidence that the agreement between Premier and Premier Providers that the agreement

by Premier to collect the liens of the Premier Providers, generated prior to October 2004, was still in effect. Beginning in January 2004 when the Petition to Consolidate was first granted, up to the time the court issued the order of dismissal no Premier Provider who was subject to the dismissal order indicated to this court they were no longer represented by Premier for the purpose of collection of their liens and defense of the issues that arose in consolidated case.

For over five years of litigation before this court, the discovery master, and several appeals, no Premier Provider indicated they were no longer represented by Premier. The court, based on these facts, concludes that the agreement that Premier represented the Premier Providers continued to be in effect as to the Premier Providers listed in the three letters from Riley and Reiner and they continued to be represented by Premier in the consolidated case as to all issues including the collection of their liens and that representation continued up through and including the date the order of dismissal issued by this court in September, 2009. It was only after the order of dismissal issued that some Premier Providers substituted in new representation and for the first time on appeal of the order of dismissal argued Premier did not have authority to act on their behalf and dismiss the liens of the Premier Providers. The collection portion of the agreements remained in effect up to and including the time of the issuance of the order of dismissal.

Second, in the agreement which was part of the criminal plea bargain, Premier's two executives stipulated they had authority to dismiss the liens with prejudice on the date the stipulation was entered into in the criminal case. This stipulation shows it was the belief of the two Premier executives that the agreements and their representation were still in effect on September 25, 2009 when the order of dismissal issued. The stipulation is further evidence the agreements remained in effect on the date of the stipulation of dismissal and the date the order to dismiss with prejudice issued.

Finally the written agreements between Premier and Premier Providers, that are exhibits in this case, provide that Premier served as billing and collection agent for all Premier Providers. The agreement further provided that the collection portion of the agreement remained in force and effect even after the remainder of the agreement was no longer in effect for liens generated during the time the agreement was in effect between Premier and the Premier Provider. Premier and the Premier executives continued to represent the Premier Providers through the date of the order of dismissal of the liens with prejudice that was issued by this court. The agreements provided that upon expiration of the agreement Premier was to continue to bill and collect for services provided during the term of the agreement. Therefore, by the terms of the agreements when Premier closed in October 2004 that collection portion of the agreement provided that Premier would continue to represent the Premier Providers as to the collection of all liens that arose before the termination of the agreement between Premier and Premier Providers. In addition, in fact, Premier did in fact continue to represent Premier Providers in this consolidation and in other cases before the WCAB after Premier closed in October of 2004.

Further the evidence establishes that Premier, in cases not part of the consolidation, continued to represent Premier Providers in collection of their liens before the WCAB after October 2004. All of the above form the basis for this court's opinion and finding that the agreement for Premier to handle collection of the liens for the various Premier Providers was still in effect on the date the settlement agreement was signed in the criminal case and on the date the order of dismissal with prejudice issued by this court.

Issue two: If the agreement between Premier and Premier Providers, that Premier was responsible for and had the power to represent the Premier Providers in the collection of their liens, was in effect, did Premier have the authority to dismiss the liens of the Premier Providers with prejudice? The following are the bases by which this court has come to the opinion and conclusion that the Premier

and Premier Executives had the authority to dismiss the liens with prejudice of the Premier Providers. All of the below are the bases of the court's opinion that the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. The court is of the opinion that each finding below individually as well as taken together supports the conclusion that the Premier Executives had the authority to agree to dismiss the liens of the Premier Providers with prejudice. The following are the reasons:

One: The section of the agreement between Premier and the Premier Providers dealing with collection supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Two: The agreement between Premier and the Premier Providers, taken as a whole, supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Three: Riley and Reiner filed and served three letters disclosing the names of the Premier Providers stipulating that the Premier Providers continued to be represented by Premier and their attorney Riley and Reiner in this consolidation case for collection of their liens and to represent them as to all other issues that arose in the consolidated case.

Four: Premier and their attorneys Riley and Reiner represented the Premier Providers in the consolidated case for collection of their liens and in all legal matters in dispute for over five years without any indication, despite numerous legal rulings and appeals, that they were no longer represented by Premier and their attorneys Riley and Reiner or that Premier did not have full authority to act on behalf of the Premier Providers, including producing thousands of pages of documents as part of the discovery process, and agreeing to pay for a court-appointed discovery master. Further, Premier did

continue to represent the Premier Providers in other cases before the WCAB after Premier closed in October of 2004.

Five: On June 14, 2004 and September 9, 2005 Riley and Reiner in a separate consolidation involving the liens of Premier and the Premier Providers and Zenith Insurance Company (Alvarez v. Fletcher Metals and Zenith Insurance, (VNO 0426482) entered into stipulations and order of removal, consolidation, withdrawal and dismissal with prejudice of requests for the allowance of liens between Premier and the Premier Providers and Zenith Insurance Company. This stipulation supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Six: The fact that Premier filed some liens of the Premier Providers in the name of Premier and not the Premier Providers supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. Despite the fact the agreement did contain a clause liens were to be filed in the name of the Premier Providers Premier did, at times, file the liens only in the name of Premier even though all services were provided by the Premier Providers.

Seven: The stipulation in the criminal case stating that the Premier Executives did in fact have the authority to dismiss the liens of the Premier Providers supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Eight: The fact that per the agreement between Premier and the Premier Providers that Premier was to receive 50% all monies collected on Premier Provider liens supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. As to surgical procedures the split was 20% to Premier and 80% to the Premier Providers. The agreement provided that Premier was to be reimbursed for their costs and 50% of the gross amount of the liens of the Providers, other than surgical procedures. In effect Premier was entitled to the majority of the gross amount of the



lien. In addition the agreement was a flat 50% regardless of the work done in collecting the liens. The agreement was not graduated based on work preformed to collect the liens.

Nine: The fact that no provision in the agreement between Premier and the Premier Providers required Premiere to seek authority to settle, reduce or dismiss the liens of the Premier Providers, supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Ten: Premier Providers introduced no evidence that during the years Premier appeared at the WCAB offices representing the Premier Providers they at time called for authority or had to call for authority to settle, reduce, submit or dismiss the liens of the Premier Providers. Defendants introduced two affidavits from two attorneys to the effect no authority was ever sought on the various liens in the cases they had where Premier Providers were represented by Premier when they appeared at the WCAB to collect the liens of Premier providers.

All ten of the above findings individually and together support the court's conclusion and are the bases for the court's opinion that the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice.

Admitted into evidence were a number of the agreements between Premier and the Premier Providers. The agreement was called a management agreement. When the agreement is read as a whole combined with the facts of what occurred in this case demonstrates this agreement created a business relationship between Premier and the Premier providers giving Premier authority over all business decisions. Whether one designates this agreement physician and management, as it was titled, or by any other title it may have legally been found to have been, this court need not decide that issue. It is concluded by this court the agreement created a business relationship that gave Premier control over the

entire business relationship between Premier and the Premier Providers. The physician only maintained control over the medical aspects of the practice, that of advice and treatment of patients and maintaining the patient's medical records.

These agreements, when taken as a whole or in part, (the collection portions only), support and lead to this court's conclusion that Premier had the authority to dismiss with prejudice all liens generated during the course of this agreement. Some of the agreements were slightly different, but in part and summary the agreements in the opinion of this court gave Premier control of the entire business practice of the Premier Providers and the Premier Providers only maintained control of the medical advice and treatment part of the practice.

The agreements provided in part and in summary as follows: The agreements which form part of the evidentiary record establish the following: 1. All bookkeeping and accounting services to support the physician's practice, including creating and maintaining all journals, ledger papers and business records were provided by Premier. All the papers and records were assigned to Premier and the only records maintained and controlled by the physician were the patient records. 2. Billing and collection of Liens: Billing and collection for all services rendered by the physician was done by Premier. A fee schedule for services was attached to the agreement and was to be reviewed by the physician. Adjustment could only be made to the fee schedule by Premier. Premier served as billing and collection agent for all liens. The agreement provided all checks were to be deposited in the clinic account and Premier was given full power of attorney and that power was irrevocable and gave Premier the power to take possession of the deposits in the name of the physician. 3. Premier was to supervise the non-medical day-to-day business of the physician. 4. Premier was to employ and supervise all non-physician personnel necessary for the operation of the provider's medical practice. 5. Premier supplied to the physician all medical books and medical and non-medical supplies. 6. Premier was to supply the

providers with all necessary equipment. 7. Premier provided all maintenance not provided for by the landlord of the office space. 8. Premier maintained the clinic bank account. 9. Upon expiration of the agreement Premier was to continue to bill and collect for services provided during the term of the agreement. 9. The agreement provided for Premier to receive 50% gross collection for all services except for surgical for which Premier would receive 20% of the gross. 10. Premier provided all marketing services. 11. Premier provided the premises of the practice and all furniture and all equipment. 12. Premier was to be compensated by the Premier Providers for all these services and cost of the premises and items such as furniture. 13. The physician paid his professional liability insurance, the amount of which was controlled by the agreement and not by the physician, and Premier provided all other insurance. 14. Premier Providers controlled the medical records and the medical advice and medical treatment.

First: If one reads just the collection agreement portion of the agreement between Premier and the Premier Providers the agreement supports the conclusion that Premier and the Premier Executives had the authority to dismiss the liens of the Premier Providers. As noted above the collection agreement provided in part and in summary as follows: 1. Billing and collection for all services rendered by the physician was done by Premier. 2. A fee schedule for services was attached to the agreement and was to be reviewed by the physician and adjustment could only be made to the fee schedule by Premier. 3. Premier served as billing and collection agent for all liens. 4. The agreement provided all checks were to be deposited in the clinic account and Premier was given full power of attorney; that power was irrevocable and gave Premier power to take possession of the deposit in the name of the physician. The agreement for collection did not call for Premier in its collection function to call the physician for authority to turn down a settlement, go to trial on a lien dispute, settle, withdraw or dismiss a lien.

Premier was responsible for filing and collecting all bills and liens. Nothing in the collection agreement required Premier, when handling these liens, to call the Premier Providers for authority and permission to settle. In these very detailed agreements of the relationship between Premier and the Premier Providers in the billing sections of the agreement, the language does not indicate that Premier needs permission to settle for any amount or to dismiss the liens of the Premier Providers. The agreement gives Premier full authority to handle the filing and collection of all liens of the Premier Providers. The only evidence introduced by Premier Providers on this issue are the affidavits saying that they did not give permission to dismiss the liens, affidavits prepared years later for this issue. Nothing in the agreement supports this conclusion. In fact the Premier Providers do not dispute that Premier had the authority to settle for any amount or go to trial. They only argue that Premier did not have authority to dismiss these liens. As can be seen by the agreement cited above Premier had full authority for collection and filing of all bills and liens of the Providers. Premier Providers have produced no evidence from the many people who appeared at the WCAB over the many years that Premier collected the Providers' liens that Premier did not have full authority to act including settlement, dismissal, withdrawal and trial. The affidavit of Karen Stevens, in fact, rebuts this idea, but more importantly, as the court is not using the affidavit to support its decision, Premier Providers introduced no evidence to support the affidavits by showing over the many years Premier collected for the Premier Providers that the many representatives called for authority or were required to call for authority. Because the agreement between Premier and the Premier Providers shows no authority was required to settle or dismiss the liens of the Premier Providers, the Premier Providers, in the opinion of this court, had the burden of proof to overcome the plain meaning of the written agreement by showing that authority was required and the affidavits submitted by the Premier Providers did not meet that burden. The agreement stands on its face unless practice shows otherwise. Nothing in the agreement and no showing of habit or

custom over the years supports the proposition that Premier did not have full authority do what they wanted with the Premier Providers' liens.

Second: The agreement between Premier and the Premier Providers taken as a whole supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. Premier had ceased doing business in October of 2004. The liens were generated prior to October 2004 and the agreement as a whole is still relevant to the relationship of Premier and the Premier Providers as to Premier and the Premier Executives' authority regarding the liens of the Premier Providers. The agreement between Premier and the Premier Providers as outlined in summary and in part above is not an agreement hiring Premier to do collection of liens provided by the Premier Providers. This agreement created a business relationship between Premier and the Premier Providers giving Premier basically total control over the business aspects of the relationship between Premier and the Premier Providers. The Premier Providers only had control over the medical aspects of the relationship, that being the diagnosis and decisions on medical opinions. When the agreement is read as a whole it support the conclusion that Premier had the power to make all business decisions including handling of lien collection and making any decision about that lien including the amount settled for or to dismiss or withdraw the lien. Even the agreement for payment indicating Premier received 50% of the proceeds of the lien supports the conclusion Premier had the authority to dismiss the liens because they basically owned 50% of the lien. In fact they owned more then 50% of the lien as the were entitled to 50% of the gross lien amount plus being reimbursed for the costs set forth in the agreement provided by Premier to the Premier providers. Also it should be noted the collection agreement was not graduated based on work provided for the collection service but 50% of the gross plus costs which supports the conclusion

of this court that Premier and the Premier Principles had full authority on all lien issues including the right to dismiss the liens.

Most collection agreements establish that an independent physician has hired an agent or attorney to represent him before the WCAB and the agent needs the authority of the principal to act. This is the argument made by the Premier Providers in this case. Every day attorneys are seen at the WCAB appearing before this court and other judges and need to call for authority to settle, litigate or dismiss a lien. The Premier Providers argued that Premier was the collection agent of their liens and Premier had no authority to dismiss the providers' liens. This is not the case here based on the collection agreement part of the overall agreement and the agreement in its entirety. Whatever one designates the relationship created by this agreement, the Providers gave full authority to Premier to run the business aspect of their practice. They only maintained control of the medical aspect of their practice. This is not a case of a Provider hiring a collection agent who must call for authority. This is a case of a business relationship in which the Premier Providers, in the opinion of this court, gave complete control of the business aspects of their practice to Premier including the right to make all business decisions about lien collection, including when to file the lien, if to file, when to settle, when not to settle and when to withdraw or dismiss a lien. This is a business relationship that gave Premier 50% of the gross amount of each lien plus costs and the authority to handle the liens as they determined without consultation or authority from the Premier Providers. The collection portion of the agreement alone, and the entire agreement supports this court's conclusion that Premier had full authority to handle the Premier Providers' liens including dismissing the liens.

The agreements above are not a mere agency agreement as argued by the Premier Providers, restricting the ability of Premier to act without authority. The Premier Executives had the authority to

agree to dismiss the Providers' liens with prejudice as part of the criminal investigation based on the fact Premier controlled the entire business aspect of the Providers' practice including collection of liens.

Third: This court ordered Riley and Reiner to contact each Premier Provider to determine which Premier Providers were represented by Premier and their attorneys in this consolidation for purpose of collection and litigation of their liens. The court also asked Riley and Reiner then to inquire if each of the Providers had been represented in the past by Premier for collection of their liens and continued to be represented by Premier and their attorneys Riley and Reiner. This court ordered Riley and Reiner to produce as list with a "yes" or "no" next to each Premier provider as to whether they were represented by Premier and Riley and Reiner in this consolidation. In response to that order Riley and Reiner filed and served three letters dated July 3, 2006, July 6, 2006 and October 17, 2006 (now defense exhibits in this consolidation) disclosing the names of the Premier providers that were represented in the consolidation by Premier and Riley and Reiner. These three letters show that Premier had full authority to act on behalf of the Premier Providers in collection and litigation of their liens that formed the consolidated case including the authority to dismiss the liens with prejudice.

Four: The fact that Premier and their attorney Riley and Reiner represented the Premier Providers in this consolidated case for collection of their liens and in all legal matters in dispute in the consolidated case for over five years without any indication, despite numerous legal ruling and appeals, that they were no longer represented by Premier and their attorneys shows that the Premier Executives had full authority to act on behalf on the Premier Providers. Premier and Riley and Reiner provided full representation to the Premier Providers including producing thousands of pages of documents as part of the discovery process, agreeing to pay for a court-appointed discovery master, filing numerous appeals and even a civil suit on their behalf. Premier also continued to represent the Premier Providers in other

cases before the WCAB after Premier closed in October of 2004 for collection of their liens. All of these facts prove that the Premier Executives had full authority to act on behalf of the Premier Providers in this consolidated case including agreeing to dismiss the liens as part of plea bargain in Los Angeles Superior Court.

Five: On June 14, 2004 and September 9, 2005 Riley and Reiner, in a separate consolidation involving the liens of Premier and the Premier Providers and Zenith Insurance Company (*Alvarez v. Fletcher Metals and Zenith Insurance*, (VNO 0426482), entered into stipulations and order of removal, consolidation, withdrawal and dismissal with prejudice of requests for the allowance of liens between Premier and the Premier Providers and Zenith Insurance Company. This stipulation supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. This case shows that per the agreements as outlined above that the Premier Executives had full authority to settle, litigate, withdraw or dismiss the Premier Providers liens. This case further supports the two affidavits given by the two defense attorneys that over the years this was the practice of Premier and calls into question the affidavits from the Providers that Premier had no authority to dismiss Premier Provider liens.

In addition the fact Premier and their attorneys filed two civil law suits against the defendants involving these liens is further evidence of the authority of Premier and the Premier Principles that they had total control and authority over these liens including the power to dismiss the liens of the Premier providers.

Fourth: The fact that Premier filed some liens of the Providers in the name of Premier and not the Premier Providers, supports the conclusion the Premier Executives had the authority to dismiss the liens of the Premier Providers with prejudice. Premier, despite the agreements stating that liens shall be filed in the name of the Providers, filed liens in the name of Premier only and not the Providers on many



occasions. In the opinion of this court, this fact, shown by the sample liens that are part of the record, establishes Premier's absolute authority do what they wanted in the collection and filling of the Providers' liens.

Fifth: The stipulation by Premier Principals in the criminal case that they did in fact have the authority to dismiss the liens of the Premier Providers supports the conclusion the Premier Executives had the authority to dismiss with prejudice the liens of the Premier Providers. This stipulation establishes that the two Premier Executives believe that they had the authority to dismiss the liens based on their relationship with the Premier Providers. The stipulation further supports the interpretation this court has made that the agreements between the Premier Providers and the Premier Executives gave the Executives full authority in collecting the liens, including when to file the lien, how to file (set forth above), when to settle, when to go to trial and when to dismiss or withdraw the liens.

Sixth: The fact that per the agreement between Premier and the Premier Providers provided that Premier was to receive 50% of all monies collected on Premier liens supports the conclusion the Premier Executives had the authority to dismiss with prejudice the liens of the Premier Providers. This fact shows that the agreement was not one of mere agency requiring the agent to get authority but rather a business relationship that was based on the fact that Premier collected 50% of the gross and that they had full authority to act regarding settling and collection of the liens including the power to dismiss any lien. Can it be argued that they did have authority to settle Premier's half of the liens but not the Provider's half of the liens? It makes no sense to conclude they can settle the half they owned but would have to litigate the other half. The fact they received half of the gross amount of the liens shows that Premier was in business with the Providers and had full authority to act on the liens of the Providers. In addition the fact the agreement was for Premier to receive 50% of the gross plus being reimbursed their business

costs proves they in fact owned the majority of each lien except for the surgery liens. The fact the agreement is for Premier to receive 50% of the gross amount regardless of the work done by Premier is further evidence that Premier and the Premier Executives had the authority to dismiss the liens. Premier received 50% of the gross if they only filed a lien and got paid in full, settled or preceded to trial on the provider's lien. This in the opinion of the court is further evidence of the control the Premier executives had over the liens of the providers including the power to dismiss the liens.

Seventh: The fact that no provision in the agreement between Premier and the Premier Providers requires they seek authority to settle, reduce or dismiss the liens of the Premier Providers supports the conclusion the Premier Executives had the authority to dismiss with prejudice the liens of the Premier Providers. This has been discussed above and supports the conclusion that the Premier Executives had the authority to dismiss the liens with prejudice.

Eighth: Premier Providers introduced no evidence that during the years Premier appeared at the WCAB offices representing the Premier Providers the representatives at any time called for authority or had to call for authority to settle, reduce, submit or dismiss the liens of the lien providers. The fact the agreements cited above contained no agreement requiring Premier to call for authority put the burden of going forward on this issue on the Premier Providers and they introduced no evidence that in all the years Premier appeared on behalf of the Premier Providers for collection of their liens before the WCAB did these representatives have to or call for authority. The affidavits produced for this litigation saying Premier had no authority to dismiss the liens of the Premiere Providers are mere conclusions and weak evidence and do not overcome the written agreement that provides for no such requirement. In fact defendants introduced two affidavits from two attorneys to the effect no authority was ever sought on the various liens of the Premier Providers when Premier appeared at the WCAB to collect the liens of Premier and the Premier Providers. This is also weak evidence but because defendants did not have the

burden on this issue, this merely calls into question the failure of the Premier Providers to introduce evidence that these affidavits' are incorrect. The above facts support the conclusion that the Premier Executives had the authority to dismiss the liens with prejudice.

4. Can defendants obtain costs and sanctions against any party that has been previously dismissed as a party in this consolidation? When the liens were dismissed with prejudice all issues attached to the liens including petitions for costs and sanctions were dismissed with the liens. Defendants, at no time prior to the order of dismissal becoming final, asked this court to reserve jurisdiction over that issue. The Premier Providers who did not appeal the order dismissing those liens were not informed that they remained liable for costs even after the liens were dismissed. In the opinion of this court to allow the defendants to proceed against the dismissed Providers for costs and sanctions would violate their due process rights as they believed dismissal ended the case. If the Providers were put on notice the dismissal would not have ended their liability and they could be liable for costs and sanctions, they most likely would have appealed the dismissal had they had known that fact. The defendants, in the opinion of this court, cannot have their cake and eat it too. In addition, this court is of the opinion that the dismissal of the liens is equivalent to dismissing the case or a compromise and release of a case. If issues are not reserved by the court in the order or by a Labor Code section, they are disposed of by the settlement or the order of dismissal. If defendants are correct, every time a request for dismissal of a lien would issue the court would have to search the file for all other issues related to the lien such as costs and sanctions and issue a notice of intention, or face the litigation continuing after the order of dismissal or disallowance. In the opinion of this court, the defendant failing to put the Premier Providers and the court on notice they were reserving that issue is equivalent to failing to raise an issue at trial and it is waived. This court most likely would have handled this case differently if it was aware of

this issue. The court may have issued a notice of intention first putting the Premier Provider's on notice or may have not dismissed the liens at all. This court believed when it dismissed the liens that it also dismissed the petitions for costs and sanctions. In the opinion of the court, defendants needed to notify the court and Premier Providers of their request to reserve their rights for costs and sanctions against Providers and that the Providers' liens being dismissed or disallowed would not dispose of that issue. Further the agreement in the criminal case which formed the basis for this dismissal contained no language reserving the defendants' right to obtain costs and sanctions against Premier or the Premier providers. The request to reserve jurisdiction must be raised with the request for dismissal or it is waived or is disposed of by operation of law by the dismissal or disallowance of the lien.

A final settlement agreement was reached in the criminal case that provided for the dismissal of all liens of Premier and the Premier Providers represented by Premier and Riley and Reiner at the time of the settlement. The settlement was in writing and dealt with on the record in the criminal case. Nowhere was mention made as part of the settlement of the defendants' intention or desire to reserve jurisdiction over the issue of costs and sanctions. It is clear by the terms of the settlement that defendants had a say in the language used by the District Attorney and could have included such a reservation of this issue and did not. In addition, when the defendants served the request for dismissal and requested the court to issue an order of dismissal they did not ask the court to reserve jurisdiction over the issue of costs and sanctions against Premier and the Premier Providers. In the opinion of the court a stipulated settlement to dismiss all liens with prejudice like any other settlement disposes of all issues except those reserved by statute or agreement. Defendants at no time indicated this issue was being reserved and the Premier Providers were justified in relying on the fact that when they made the decision to appeal the order of dismissal. If defendants can now raise the issue of costs and sanctions it may be a basis to set aside the dismissal as the Providers had a right to believe when they did not appeal

the dismissal order they were out of the case including money they may have been owed by defendant and money they may have owed to defendants. The settlement in the opinion of the court disposed of all issues relating to the dismissed liens including costs and sanctions. This court may not have dismissed the liens if the court were on notice that defendants were reserving that issue and at a minimum most likely would have issued a notice of intention before dismissing the liens and a notice of intention may have been required before dismissing for the court to reserve jurisdiction over that issue.

5. Should Riley and Reiner be relieved as attorneys of record for Premier and various lien claimants? Riley and Reiner represented both Premier and a most of the Premier Providers in this consolidate case for many years. After the order of dismissal was issued Riley and Reiner were substituted out of the case by all Premier entities currently involved in this portion of the case. Therefore they are dismissed as attorneys of record. They shall keep their address and phone number current with the court as they may be needed to supply information as additional issues arise. Also the dismissal is contingent on the decision in issue four becoming final as ruled on by this court. If that finding is reversed as to the liens of the Premier entities previously dismissed, or if the order of dismissal is vacated in its entirety, Riley and Reiner would still be attorneys of record for those lien claimants now not part of this case and they would have to file a new motion with notice to all of them that they are back in the case, as they now think they are dismissed on all issues and they do not want to represent those individuals. Because this court is ruling those lien claimants are out of this case on all issues, they can be dismissed as attorneys of record, but in the opinion of this court they would need to be brought back in if this case is reversed on either or both of those issues. Since this decision disposes of those issues they are dismissed as attorneys of record in this case. If this court is reversed on either both issue six or seven his remaining clients would be back in this case and they would be their current attorney of

record. This dismissal is based on the fact they no longer represent any person or entity currently litigating this case but they would represent clients who would become active in this case should this court be reversed on issues 6 and/or 7.

6. Did the dismissal order of 9/24/09 violate the Labor Code and/or due process rights of Premier and the Premier Providers, therefore rendering the order invalid? The dismissal order is valid as to any Providers who did not file a timely petition for reconsideration. The order of dismissal was signed by the two Executives of Premier medical management and was entered into as part of the criminal plea bargain. There are no forms for lien settlements or Labor Code requirements for the form or substance of a lien settlement agreement or lien dismissal. Over the years these settlements have come to the court in many forms including blank paper, legal paper and in many different forms. As long as agreements are executed by the person of authority they are valid regardless of the form. Here after the order issued many Premier Providers appealed on many issues as outlined in this opinion on decision. As to those lien claimants that did not timely appeal the Providers have failed in their burden of proof to show good cause to set aside the order. The order is final as to any Provider who did not file a timely appeal. The order is valid as to Premier as it was signed by the Executives of Premier and is valid as to all Premier Providers as they have not shown a legal basis to set aside an order which was not timely appealed. If those Providers had issues with the order when it was issued they should have filed a timely appeal. When those Providers did not file a timely appeal the order became final and the only basis to continue would be to set aside the order as being based on fraud, duress or undue influence. The Premier Providers have failed in their burden of proof and have shown no grounds to set aside the order as void on its face, nor grounds to set aside a final order which was subject to appeal and not timely appealed.

The Providers argue that the dismissal violated their due process rights because defendants did not file a petition to dismiss. A request to dismiss liens can be made by filing a petition. In this case the request was made based on a stipulation to dismiss reached in the criminal case. The agreement to dismiss was filed by defendants with a request that an order of dismissal be issued by the court. Because this dismissal was made based on a stipulation in the criminal case to dismiss the liens with prejudice no petition was required and the order of dismissal issued without defendants filing a petition to dismiss did not violate the Premier Providers' due process rights.

Providers argue that their due process rights were violated by the order of dismissal of their liens with prejudice issued without a notice of intention to dismiss first being issued by the court. No Labor Code section or board regulation requires that a notice of intention issue when approving a lien settlement. No due process rights were violated by approving the lien settlement without first issuing a notice of intention. The fact the lien settlement was entered into as part of plea bargain in the criminal case did not create a due process requirement of the court first issuing a notice of intention before approving the settlement agreement.

7. Were the Premier Representatives acting under duress and/or conflict of interest when they agreed to dismiss the lien of the Executives and various lien claimants? The agreement to dismiss the liens was made by the Executives of Premier as part of a criminal plea bargain. The Executives were represented by counsel in the criminal case and as the exhibits show; they went on the record and freely entered into the plea bargain. It appears the Premier Providers are arguing anything agreed as part of plea bargain is made under duress. If that were the case all such agreements would be invalid. Because an agreement is made as part of plea bargain does not mean it was made under duress. This court finds that the agreement in the criminal case was made as part of plea bargain was not made under duress and

the fact the agreement was part of a criminal plea bargain does not serve as a basis to set aside or invalidate the order. The agreement in the criminal case was made when the Premier executives were represented in the criminal case by counsel and was made knowingly on the record with all their legal rights know to them at the time of the agreement.

The last issue is that the dismissal agreement that was part of the plea bargain was not signed by Riley and Reiner, therefore rendering the agreement invalid as to the Premier Providers. The court concludes Riley and Reiner's signature was not required. The WCAB has forms for settlement and dismissal of a case by an applicant, requiring the attorney's signature if represented. No form or regulation sets forth the form or requirement for settlement or dismissal of liens. Many times they agreements are signed by the person appearing at the WCAB for the providers and other times they come in the mail and are signed by the provider, hearing representatives or the entity doing the collection. These are all approved by the WCAB. If settlements or dismissals had come in for approval and not as part of a plea bargain and signed by the Premier Executives, the Providers, Premier hearing representatives or Riley and Reiner all would have been approved as there is no requirement in the Labor Code, forms, case law or regulations as to what form these settlements must take and who needs to sign them as long as one person with authority is a signator to the agreement. Many times these settlements are hand written on blank paper, blank orders or minutes of hearing and the dismissal or settlements are approved. As discussed above the Premier Executives had the authority to sign the dismissal with prejudice and the absence of signatures on the agreement from Riley and Reiner does not invalidate the agreement. In addition since the dismissal was part of plea bargain in a criminal case against the Premier Executives no signatures of Riley and Reiner were required on the agreement to dismiss the liens with prejudice.



**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
WORKERS' COMPENSATION APPEALS BOARD**

**Idahirma Yero, et al.,**

**Applicant,**

**vs.**

**Elite Personnel;  
California insurance Guarantee Association ,  
et al.,** **Defendant (s).**

**Premier Medical Management System (aka  
Delta Management Group. DMG Premier  
Management, Premier Medical and Premier  
Billing) and various Lien Claimant Providers  
(aka Premier Providers)  
Lien Claimant and  
Real Party in Interest**

**Case No. ADJ3099625  
VNO0406036  
(Consolidated Master File)**

**FINDINGS OF FACT**

**And**

**ORDERS**

District Office: Van Nuys  
Location: Van Nuys, California

**FINDINGS OF FACT**

1. The court has jurisdiction to alter, amend, clarify, vacate, rescind, or interpret, the orders that issued on 9/24/2009, 10/21/2009, 11/14/2009 and 12/3/2009.
2. The order of 9/24/2009 is valid and still in effect.
3. The orders of 10/21/2009 11/14/2009 and 12/3/2009 amended the order of 9/24/09 and related back to that order.

4. The court has jurisdiction to alter, amend, clarify, vacate, rescind, or interpret as to all lien claimants who filed a timely Petition for Reconsideration from the order of 9/24/09 which the court rescinded pursuant to WCAB regulation 10859 in the orders of 10/21/2009, 11/14/2009 and 12/3/2009.
5. David Wayne Fish and Briger Gregory Vacino had the authority to dismiss the liens of Premier and various Premier Providers when they entered into a stipulation for dismissal with prejudice of all liens in the criminal case in Los Angeles Superior Court.
6. Defendants cannot obtain costs and sanctions against any party that has been previously dismissed as a party in this consolidation or is being dismissed by this order.
7. Riley and Reiner are relieved as attorneys of record for Premier and various lien claimants.
8. The dismissal order of 9/24/09 did not violate the Labor Code and/or due process rights of Premier and the Premiere Providers, therefore rendering the order of dismissal invalid.
9. The Premier Representatives were not acting under duress and/or in conflict of interest when they agreed to dismiss the liens of Premier and various Premier Providers.

### **ORDERS**


***IT IS ORDERED as follows:***

1. Defendant's Petitions for costs and sanctions against any lien claimant that has been previously dismissed as a party in this consolidation or is currently being dismissed as a party is dismissed.
2. Riley and Reiner are relieved as attorneys of record for Premier and various Premier Providers.
3. Premier Providers' motion to set aside the order of dismissal with prejudice of September 25, 2009 is denied.
4. Each and every lien, known and unknown, filed by and on behalf of Premier individually, or on behalf of a Premier Provider, identified as being represented in this consolidation by the law firm of Riley and Reiner at the hearing on May 23 2008 in the WCAB proceedings in this consolidation, including those Providers who Premier provided billing and management services that were clients of Riley and Reiner as listed in Riley and Reiner's letters in response to this court's order to Riley and Reiner to produce a list with a "yes" or "no" next to each Premier Provider as to whether they were represented by Premiere and Riley and Reiner in this consolidation, and identified by Riley and Reiner in the three letters dated July 3, 2006, July 6, 2006 and October 17, 2006 (now defense exhibits in this consolidation disclosing the names of the Premier Providers that were represented in the consolidation by Premier and Riley and Reiner) are hereby dismissed with

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prejudice. Those liens already dismissed by this court by final order of September 25, 2009, and no timely appeal having been filed, are not included in this order, as those liens are already dismissed with prejudice and the order is final.

  
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MARK L. KAHN, ASSOCIATE CHIEF JUDGE  
WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE

DATED: February 10, 2011

Service to all parties on the updated Official Address service record dated October 11, 2010, via USPS.

By:   
\_\_\_\_\_  
Teri Finchum