



New Case Brief
Prepared by Salinas Office
Glen H. Wallace, Esq.

June 5, 2006

Universal Building Services v. WCAB, Bay Surgery Center (Yturbe)
(2006) 71 CCC * [Writ Denied - 1st App. Dist., Div. Four, Court of Appeal]**

Defense bill review witnesses beware! The data you present at trial to show that a lien claimant's bill is unreasonable must be based on actual billings and actual acceptances.

In Yturbe, the bill review expert witness referred to exhibits based on "test comparisons" of what the bill reviewer "would recommend for payment" to local providers. While he testified that the statistics were based on data from the State of California, he had no documentary proof. Accordingly, the WCAB determined that defendants failed to present "substantial evidence" as there was no proof of actual billings and actual acceptances.

Lien claimant was awarded full payment on its lien, even though the WCAB found their bills to be unreasonable on their face. Therefore, in lien claim defense trials, be sure to submit exhibits based on actual bills and acceptances of "geographically similarly situated providers" if you expect to satisfy the requirements of the Kunz decision and have the court deem the bill unreasonable.