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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, EL CAJON BRANCH

11 RICK A. HOLLIFIELD; [REDACTED]
12 [REDACTED]

13 Plaintiffs,

14 vs.

15 OLSEN STEEL, INC., a California
16 corporation and DOES 1 to 100,
17 inclusive

17 Defendants.

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PLAINTIFF RICK HOLLIFIELD'S
MEDIATION BRIEF

Date: Tuesday, August 11, 1998

Time: 1:00 p.m.

Place: 501 W. Broadway

Suite 1770

San Diego, CA 92101-3595

Honorable Harry McCue

I. FACTS

20 Plaintiff RICK A. HOLLIFIELD (hereinafter "HOLLIFIELD") was employed by
21 Kvaas Construction (hereinafter "KVAAS") working as a laborer (steel worker) on the
22 Metropolitan Waste Water Treatment Center site located at 5240 Convoy Street, San Diego,
23 California on or about August 28, 1996. KVAAS was the general contractor on site and
24 Defendant OLSEN STEEL, INC. (hereinafter "OLSEN") was a subcontractor on this job site.
25 OLSEN provided all the steel channels for this job site. OLSEN delivered the steel and moved
26 the steel around the job site as necessary with their cranes and lifts. Large tilt up concrete
27 buildings were being constructed at the site and KVAAS was responsible for placing and
28



1 securing the steel beams on the concrete walls. Many of the steel channels were attached with
2 bolts to the concrete walls while the walls were on the ground. However, some of the steel
3 channels could not be attached to the walls until the walls were tilted up and in position.

4 HOLLIFIELD's duties included attaching the steel channels to the concrete walls.
5 HOLLIFIELD was injured when he and Danny Privett were attaching a twenty-two foot steel
6 channel (12 inches wide and 20.7 pounds per foot/total weight was 455 pounds) to a wall in
7 room 122 of one of the tilt up concrete buildings. HOLLIFIELD and Privett were working in a
8 room which had all four walls in place with several open doorways and an open roof.

9 Kurt Roll, an employee of Defendant OLSEN STEEL, used a sky track lift to pick up
10 the steel channel (outside the building) and lift it up over the wall. He lost sight of the steel
11 channel when the channel was lowered over the thirty foot (30') wall. Ken Younghusband was
12 acting as a signalman for Kurt Roll. However, Younghusband and Roll did not have visual
13 contact, nor did they have radios. Construction safety rules require a radio when a sky lift
14 (crane) operator does not have constant visual contact with his signalman. (See attached Exhibit
15 1) Clearly, Roll and Younghusband were negligent in the operation of the sky track. They
16 violated a very clear standard safety rule.
17

18 As the 455 pound steel channel (attached by one center cable rope only) was being
19 lowered over the north wall of room 122 the steel channel hung up on a steel ledger on the east
20 wall. Younghusband had to walk out of the room in order to signal Roll, the crane operator.
21 The delay between recognition of the need to have Mr. Roll stop the crane from lowering the
22 steel channel and the actual signal caused slack of approximately 18 to 24 inches to develop in
23 the cable which was attached to the steel channel. The channel wedged on the ledger nearest
24 HOLLIFIELD.

25 All construction experts would agree that slack in a cable in a situation such as the one
26 which occurred here is a dangerous situation and the slack was a contributing factor in Mr.
27 Hollifield's fall and resultant injury.
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1 Mr. McKibben, HOLLIFIELD's expert, clearly states that the primary, and probably
2 sole cause of HOLLIFIELD's fall was the slack in the cable.

3 There are several versions of what occurred after the steel channel was hung up on
4 one end.

5 Version no. 1: HOLLIFIELD had his hand on the channel to keep it from swinging
6 toward him and to allow him to move the channel into its proper location. The steel channel
7 wedged onto a steel ledger on the east wall. The channel was to be attached to the north wall
8 and HOLLIFIELD was working from his ladder which was placed on the East wall. The steel
9 channel was raised by DEFENDANT's sky track releasing it from the wedged situation. It was
10 then lowered, but due to the slack in the cable the steel channel dropped two to four feet
11 suddenly and unexpectedly which caused HOLLIFIELD to lose his balance and fall.

12 Version no. 2: HOLLIFIELD had his hand on the channel to keep it from swinging
13 toward him and to allow him to move the channel into its proper location. The steel channel
14 wedged onto a steel ledger on the east wall. HOLLIFIELD was pushing the channel away from
15 him in an attempt to dislodge the channel. The channel released and due to the slack in the
16 channel it dropped two to four feet causing HOLLIFIELD to lose his balance and fall.

17 II. ISSUES

18 The main issue in the case will be liability, since all parties agree that HOLLIFIELD
19 has suffered a very severe and permanent injury. HOLLIFIELD severely fractured (crushed) his
20 left wrist joint. He has had eleven surgical procedures so far, and he currently has virtually no
21 grip strength in his left (dominant) hand and almost no movement in his wrist. He will be
22 permanently disabled and not able to continue working in the construction field. At age 31 he
23 was finally making good wages and had a bright future as a journeyman steelworker and now his
24 excellent potential earning capacity is gone.
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III. LIABILITY

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2 Plaintiff contends that the third party defendants (OLSEN STEEL, INC) through its
3 employees Kurt Roll and Ken Younghusband negligently operated a crane in such a manner as
4 to cause slack in the cable which resulted in a sudden drop of the channel causing HOLLIFIELD
5 to lose his balance and fall from his ladder.

6 It is irrefutable that Roll and Younghusband violated OSHA rules by failing to use
7 radios as required. This was a "blind drop" and it requires radios. Olsen claimed at his
8 deposition that he could see Younghusband's hands through the doorways and that he received
9 sufficient hand signals. Howard Cayton, the site safety inspector, investigated the scene and
10 concluded that it was impossible to stand in room 122 and signal to the crane operator from the
11 doorways. Younghusband claims that he relayed his signals from room 122 to a co-employee,
12 Jose Lopez, who was standing in the doorway who than relayed the signals to Roll. An
13 electrician in adjoining room 124 says there was no relay signalman. Even if there was a relay
14 signalman, this violates the OSHA safety rule requiring direct eye visual contact between
15 signalman and crane operator. Hollifield and Privett, who were on the ladders in the room, both
16 state that Younghusband was the only signalman, and he was in the room with them and the
17 from time to time walked out of the room. **It doesn't matter which version is accurate**
18 **because in every version Olsen Steel is negligent.**

19
20 Defendants contend that HOLLIFIELD's use of his ladder was negligent and that this
21 was the primary cause of the accident. HOLLIFIELD placed his ladder and used it in the safest
22 manner possible given the circumstances which were presented to him. If his ladder had been
23 facing the wall as required by some ladder safety standards, HOLLIFIELD certainly would have
24 been knocked off the ladder by the channel as it came over the wall. Even if HOLLIFIELD's
25 ladder had been held by someone below, he still would have been knocked off the ladder as the
26 channel came over the wall if he had placed his ladder on the wall where the channel was to be
27 installed.
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1 Even Mr. Younghusband, the signalman, admitted in his deposition that he would have
2 placed his ladder precisely where HOLLIFIELD placed his ladder given the circumstances.

3 Furthermore, photographs taken by the safety expert after the incident clearly demonstrate that
4 it is not necessary to have someone hold the bottom of the ladder in order to use a ladder safely.

5 Plaintiffs contend that this is a clear case of negligence on the part of OLSEN and that
6 any contributory negligence of HOLLIFIELD is negligible

7 **IV. INJURIES**

8 The injuries suffered by Rick Hollifield are as follows:

- 9 1. **Severe comminuted (crushing) fracture to his distal left wrist;**
- 10 2. **Destruction of the joint between the radius and proximal carpal row;**
- 11 3. **Severe, acute, carpal tunnel syndrome;**
- 12 4. **Chest, ribs and forehead contusions;**
- 13 5. **Severely bruised left shoulder;**
- 14 6. **Head trauma;**

15
16 The symptoms which accompanied these injuries are as follows:

- 17 1. **Permanent loss of range of motion in wrist and distal radial ulna joint;**
- 18 2. **Complete loss of grip strength in left hand;**
- 19 3. **Post-traumatic arthritis of the left wrist;**
- 20 4. **Tingling, numbness and stiffness in the left hand and fingers;**
- 21 5. **Abdominal pain and nausea;**
- 22 6. **Left chest pain;**
- 23 7. **Severe occipital headaches;**
- 24 8. **Left shoulder pain;**
- 25 9. **Reactive depression and sleep disorder;**

26 The surgeries required as a result of the injuries include the following:

- 27 1. 8/28/96 Dr. Kupfer
28 1) Reduction of distal radius fracture

1 He will have life long pain in his left wrist but the degree of pain is not yet known.

2 **V. LOSS OF INCOME**

3 At the time of the accident Mr. Hollifield was working for KVAAS as a laborer hoping
4 to become a journeyman steel worker. He was earning \$20.55 per hour for KVAAS. His job
5 prior to the KVAAS job paid \$19.30 per hour.

6 Mr. Hollifield graduated from high school but he has no other formal education. He
7 was not a good student. It is going to be very difficult for Mr. Hollifield to be retrained to
8 perform well in any occupation which will pay even half as much as he was making as a laborer,
9 let alone a steel worker.

10 This is not simply a wrist injury case. **This is a very devastating injury case**
11 **because Mr. Hollifield's whole life has changed as a result of this accident.** At the time of
12 the accident, Mr. Hollifield was only 31 years of age, which means he had at least 34 more wage
13 earning years. Please see attached Exhibit 2 which sets forth the estimated loss of earnings.

14 **VI. MEDICAL EXPENSES AND DAMAGES**

15 The medical expenses incurred thus far by Mr. Hollifield are set forth in the attached
16 Statement of Medical Expenses and they have been paid by Argonaut Insurance Company.
17 **Argonaut is the workers compensation insurance representing KVAAS and Argonaut is**
18 **the insurance company representing the Defendant in this law suit, OLSEN STEEL, INC.**

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21 **VII. CONCLUSION**

22 Defendant was negligent in not properly supervising, training and managing its
23 employees, not adhering to the Construction Safety Standards and not providing the signalman
24 with adequate electronic communication equipment so he could immediately inform the crane
25 operator of a dangerous situation in the lowering of the steel channel. Defendant's negligence
26 and carelessness caused a dangerous condition which caused Plaintiff to be injured.

1 In evaluating this claim one must consider that this claim is truly a **personal injury**
2 which was **suffered by Rick Hollifield** . He has incurred extreme pain and suffering as a result
3 of defendant's negligence. No one can accurately anticipate all of the monetary, emotional,
4 psychological and personal damages that Rick will surely suffer as a result of his injuries but he
5 only has one opportunity to be compensated for his injuries. Rick has been unable to return to
6 work and will **never be able to return to his chosen profession**. He is struggling to maintain
7 his psychological stability because of inactivity, lack of scheduling, and essentially too much free
8 time on his hands with too much to think about. Rick has separated from his wife of nearly five
9 years because of tension due to the injury and his lack of activity, loss of daily structure,
10 financial constraints, and increased tension around the house. Instead of looking forward to
11 promotions and stability as a result of employment longevity, Rick now looks at permanent
12 disability, extended vocational rehabilitation and entry level employment.

13 Dated: August 17, 1998

14 Respectfully Submitted:

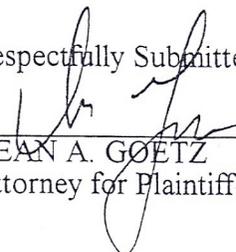
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16 _____
17 DEAN A. GOETZ
18 Attorney for Plaintiff
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Exhibit 2

Rick Hollifield

D/O/B 1-27-65

Age 33

I. Loss of Income

Facts:

1. Earnings at time of injury: \$20.55 per hour or \$822 per week or \$42,744 per year.
 2. Expected earnings due to injury: \$8 per hour or \$320 per week or \$16,640 per year.
 3. Expected earnings if Hollifield had become a journeyman steelworker: \$29.25 per hour.
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A. Loss of Earnings to Date

Earnings Loss from August 28, 1996 to August 28, 1998:
 $\$26,104 \times 2 \text{ years} = \$52,208.$

B. Future Loss of Earnings

32 years at \$26,104 per year = \$835,328

Total Loss of Earnings \$887,536

If one assumes that Hollifield would have become a journeyman steel worker within 4 years, the loss of earnings would be greater.

$(\$60,840 - \$16,640 = \$44,200 \times 30 \text{ years} = \$1,326,000 + \$52,208 = \$1,378,208)$

STATEMENT OF DAMAGES

RICK A. HOLLIFIELD

DATE OF INJURY: AUGUST 28, 1996

Age: 33

I. SPECIAL DAMAGES

A. Medical Expenses	
Medical bills incurred to date:	\$ 105,608
B. Future Medical Expenses	
Estimated future medical expenses:	\$ 60,000
C. Loss of Income	\$ 887,536
D. Cost of Retraining	<u>\$ 60,000</u>
2 years at \$30,000 per year	
TOTAL SPECIAL DAMAGES:	\$1,113,144

II. GENERAL DAMAGES

A. Pain and Suffering	
Pain, suffering & trauma incurred at time of injury:	\$ 20,000
Pain, suffering & trauma associated with 7 major wrist surgeries:	\$ 175,000
Pain, suffering & trauma associated with 4 minor wrist surgeries:	\$ 40,000
Loss of enjoyment of life: No sports; no physical activities involving wrist movement; loss of self-esteem	\$ 400,000
Pain & Suffering associated with constant wrist joint pain, including arthritic pain and numbness, lack of motion and stiffness in wrist, loss of grip strength and arm strength.	\$ 400,000
TOTAL GENERAL DAMAGES:	\$1,035,000

TOTAL DAMAGES: \$2,148,144