

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. **SDC 9222978**

**DECLARATION OF READINESS
TO PROCEED**

RICK HOLLIFIELD *Applicant*

vs.
KVAAS CONSTRUCTION COMPANY
&
ARGONAUT INSURANCE COMPANY *Defendants*

NOTICE: "Any objection to the proceedings requested by a Declaration of Readiness to proceed shall be filed and served within ten (10) days after service of the Declaration. (Rule 10416)

The Employee or applicant
 Defendant
 Lien Claimant

requests that this case be set for hearing at
WORKERS COMPENSATION APPEALS BOARD
7575 METROPOLITAN DR. SAN DIEGO, CA. 92108
(Place)

and declarant states under penalty of perjury that he or she is presently ready to proceed to hearing on the issues below and has made the following efforts to resolve these issues. I phoned my Attorney at the time (Dean Goetz) on 12/09/98 right after my Doctors appointment and informed him of a broken plate in my wrist and could we stop the C&R. Also asked if credit being petitioned by Argonaut Ins. Could be DISPUTED. He said, "NO". I called Argonaut - Their reply - Talk to our Attorneys. I phoned Argonauts Attorney. We could not resolve the issues.

Declarant requests:
 Regular Hearing Conference Pre-trial Rating Pre-trial
(SEE REVERSE SIDE FOR INSTRUCTIONS)

At the present time the principal issues are—
 Compensation Rate Rehabilitation
 Temporary Disability Self-procured Treatment
 Permanent Disability Future Medical Treatment
 Other Permanent and Stationary Report / Compromise and Release

Employee is (or) is not presently receiving compensation payments.
Employee's condition following injury is permanent and stationary as shown by the report(s) of
Doctor(s) N/A Dated N/A
filed and served on N/A

I expect to present _____ witnesses, including _____ medical witnesses, and estimate the time required for the hearing will be _____ hours.
I have completed discovery and all medical reports in my possession or control have been filed and served as required by WCAB Rules of Practices and Procedure.
Adverse parties have (or) have not served me with medical reports.
Copies of this Declaration have been served this date as shown below.

Name (Print or Type) RICK HOLLIFIELD
Declarant's signature *Rick Hollifield*
Address 1042-A SO. ANZA ST., EL CAJON, CA 92020 Phone (619) 442-1823
Date 06/06/2007

SERVICE

Type or print names and addresses of parties, including attorneys and representatives served with a copy of this Declaration:
Workers Compensation Appeals Board 7575 Metropolitan Dr. Ste.# 202, San Diego, Ca 92108
Argonaut Insurance Company 9191 Towne Center Dr. Ste. # 375, San Diego, Ca. 92122
Attorney for Defendants — Michael E. Jones 3737 Camino del Rio So., Ste.# 106, San Diego, Ca.92108

CASE NUMBER SDO 0222978

ATTENTION: JUDGE KEITH DIETTERLE

ADDENDUM TO STATEMENT OF FACTS

ATTACHED TO DECLARATION OF

READINESS TO PROCEED

SUBMITTED BY

APPLICANT

RICK HOLLIFIELD

ADDENDUM TO STATEMENT OF FACTS ATTACHED TO
DECLARATION OF READINESS TO PROCEED

Upon reflecting on the matter, I feel I should communicate to referee, Keith Dietterle, some following concerns that I have regarding the handling and posture of my presently pending matter.

I was originally represented in my Workers' Compensation Case by Richard Lee Sax and Dean Goetz. They, likewise, were the same two attorneys who represented me in a third party claim (Superior Court Case No. EC015235). The Defendants insurer in the third party liability claim was ARGONAUT INSURANCE COMPANY. The insurer for my employer Kvaas Construction Company in this case (WCAB Case No. SDO 00222978) is likewise ARGONAUT INSURANCE COMPANY.

It was my belief at the time I signed the Compromise and Release papers that I was healed and that Dr. Braun had written a P&S Report and that was the reason for the letter from Argonaut on October 6, 1998 stopping my Temporary Disability benefits.

Argonaut knew before I signed papers that a P&S Report had not yet been written. Argonaut had requested on numerous occasions a copy of the P&S Report from Dr. Braun before I had signed Compromise and Release papers. They also knew WE were starting a trial on the third party claim in Superior Court within a couple weeks. The posture of this case creates an appearance, in my eyes, of a conflict of interest on the part of ARGONAUT INSURANCE COMPANY.

If there was no conflict of interest , Why did Argonaut wait until after I signed the Compromise and Release papers and have the Superior Court case DISMISSED before they had Dr. Braun call me to schedule an appointment so he could make me Permanent and Stationary? (Something I believed was already written prior to signing papers)

ARGONAUT terminated my Temporary Disability payments without ever providing me, and as far as I can ascertain Judge Dietterle, a report that I was P&S at the time we agreed to a settlement of the case. Also my medical benefits were terminated and I have had to pay continuing medical expenses at my own expense for the treatment of my injuries. These expenses are continuing.

I would, likewise, request that the Referee in fairness order Dean Goetz to pay for a new attorney in the Workers' Compensation case from the funds he has paid himself without the Judges approval. Mr. Goetz made no attempt to help me after the signing of the Compromise and Release and being paid \$ 78,000. He missed a vital court appearance on December 1, 1998 before Judge Dietterle and did nothing when asked to dispute the credit being requested by Argonaut.

My Attorney, Dean Goetz, apparently in agreement with Argonauts' Attorney, Michael

Jones, as well as their attorney on the third party claim, prepared and proported to agree to a settlement. They agreed upon a portioning and dividing and disbursement of what assets which were available without giving me any input or idea of what was the basis of this settlement.

It is not possible for me to ascertain the basis for the termination of Temporary Disability, and their determination to not pay any future medical charges, as well as, their creating a situation where I am not eligible for retraining.

I would wish that the referee require Argonaut, who insured my employer KVAAS on the Workers' Compensation case and OLSEN STEEL in the third party action, to render an accounting and explanation to the court.

Since I am unable to continue working as a carpenter (injury to my dominant left hand and arm) I need retaining for another type of employment. I feel that giving this new information Argonaut should pay for that training.

Dated: 06/12/01

Respectfully submitted,

RICK HOLLIFIELD

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RICK HOLLIFIELD
1042-A South Anza Street
El Cajon, Ca. 92020
(619) 442-1823

BEFORE THE WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

RICK A. HOLLIFIELD)	CASE NO. SDO 0222978
Applicant.)	
VS.)	
ARGONAUT INSURANCE COMPANY)	STATEMENT OF FACTS
Defendant.)	

On August 28, 1996 I the Plaintiff RICK HOLLIFIELD, was employed by Kvaas Construction Company as a carpenter/laborer on the Metropolitan Waste Water Treatment Center site located at 5240 Convoy St., San Diego, California. Kvaas was the General Contractor on the job and Olsen Steel was a subcontractor on the job site. Olsen Steel delivered the steel and moved the steel around the job site as necessary with their cranes. MY duties included helping Olsen Steel employees attach the steel channels to the concrete walls. I was injured in an accident on the job site when a fellow worker and MYSELF were attaching a twenty foot steel channel to a wall on a blind drop (crane operator uses a pointman or signaler because he cannot see where he is setting the load). I had my left hand on the channel to allow me to move it into the proper position, however, due to a slack in the steel cable of the crane that was lowering the channel, the channel dropped one to two feet causing ME to lose balance and fall about twenty feet. This accident left me with a severely fractured DOMINANT left wrist.

ARGONAUT referred me to THEIR Doctor (Dr. RICHARD BRAUN) to diagnose, prescribe medicine, treat care for, and perform any necessary surgeries in the treatment of my injuries. Since the accident I have underwent more than ten surgical procedures performed by Dr. BRAUN.

1 On or about October 02, 1996 I filed a claim for damages with the Workers' Compensation Appeals
2 Board against OLSEN STEEL and their insurance carrier ARGONAUT alleging that I suffered injuries and
3 consequential damages due to the defendants NEGLIGENCE. I also filed an action in Superior Court against
4 OLSEN STEEL for personal injury Case No. EC 015235.

5 On August 18, 1998, DR BRAUN prepared and submitted to ME and to DEFENDANTS (OLSEN and
6 ARGONAUT) a report of MY condition in which HE concluded that the fracture to MY distal radius had healed,
7 that I had healed the radius to carpal row fusion, HE also predicted that I would be off Temporary Disability in
8 3-4 months, and BRAUN further stated in this report that " Mr. Hollifield has never required a total wrist fusion.
9 A total wrist fusion would carry extra morbidity and increased disability for Mr Hollifield." TWO MONTHS later
10 on or about October 5, 1998 DR BRAUN states again I'm healed and he is going to make me Permanant and
11 Stationary as of October 15, 1998 and that no further appointment was necessary.

12 On or about October 6, 1998 I received a letter in the mail from ARGONAUT informing me that my payments
13 were ending because I was Permanant and Stationary. So, in reasonable and good faith reliance upon BRAUN
14 and his diagnosis that I had healed the fracture in my wrist, I entered into a settlement with DEFENDANT's
15 KVAAS, OLSEN STEEL and ARGONAUT in my pending action for personal injury and accepted a recovery
16 for the damages caused by the injury to my wrist. The settlement agreement and mutual release were based
17 MOSTLY in part because of DR BRAUN's final report and his diagnosis that I was HEALED.

18 Subsequent to DR BRAUN's report and diagnosis, and subsequent to the settlement which I accepted,
19 I suffered further problems with my wrist. On December 9, 1998 I was informed that the plate in my wrist had
20 broken. After further treatment and diagnosis on or about March 11, 1999 I was informed by a different Doctor
21 (Dr. REID ABRAMS) that contrary to DR BRAUN's diagnosis, the fracture of the distal radius in my wrist had
22 NEVER HEALED and that I continued to have a NON-UNION, which caused the plate to BREAK.

23 On June 8, 1999 I underwent a left TOTAL WRIST FUSION and REPAIR of my FLEXOR TENDEN in
24 my thumb (that ruptured because of the broken plate). I now suffer from a PERMANANT DISABILITY to my
25 left DOMINANT arm due to a TOTALLY FUSED WRIST.

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2 I would not have executed the settlement agreement and mutual release had I been
3 aware of the fact that the fracture in my wrist had NOT HEALED. I was induced to enter
4 into the settlement agreement by the MISREPRESENTATIONS of the Doctor hired by
5 the defendant ARGONAUT that led me to believe that I HAD HEALED the fracture in
6 my wrist. These misrepresentations were material to the settlement agreement. My consent
7 to be bound by the agreement was induced by the misrepresentations of material facts by
8 BRAUN and defendant ARGONAUT.
9

10 When defendants ARGONAUT and BRAUN made their representations that I had
11 healed the fracture in my wrist and I was Permanant and Stationary, they knew them to be
12 false, and made them with the intent to induce me to enter a settlement with defendants
13 ARGONAUT and dismiss my claim.
14

15 I believed the statements of BRAUN and the defendants ARGONAUT regarding
16 my HEALED wrist and me being Permanant and Stationary. My non-expertise in the field
17 medicine gave me NO REASON to believe that the statements were false. I had x-rays
18 taken of my wrist and examinations by DR BRAUN who reported to me that such x-rays
19 and examinations showed that my wrist had healed. Such x-rays were reported to me as
20 normal and I had NO REASON to suspect that these reports were INCORRECT until on
21 or about March 11, 1999, when I underwent further physical examanations and obtained a
22 medical opinion that the fracture of my wrist had NEVER HEALED, that I continued to
23 have a NON-UNION and the non-union caused the plate to break. I was also told that I
24 would require a total wrist fusion.
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27 BRAUN had a fiduciary duty as my treating physician. BRAUN's fiduciary duty to
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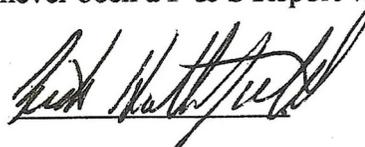
1 me and all knowledge of BRAUN was imputed to the defendant ARGONAUT. BRAUN's
2 fiduciary duty further required BRAUN to disclose all material information to me, to act in
3 good faith towards me and in my best interests. Defendant ARGONAUT breached this
4 fiduciary duty when they failed to disclose the non-union in my wrist and the lack of a P&S
5 Report. Due to the MISREPRESENTATIONS by defendants I was induced to accept a
6 recovery in settlement of my personal injury claim for an amount lower than my true
7 damages which now include a permanent disability in my left arm due to a total wrist fusion.
8 I have sustained damages and will sustain further damages from future arm and shoulder
9 problems, loss of earnings and a loss of future earning capacity, increased medical expenses,
10 physical pain and suffering and emotional distress.

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13 I seek RESCISSION of the settlement agreement and mutual release based on fraud
14 and misrepresentations, because said settlement agreement and mutual release was the
15 product of such fraud and misrepresentations.

16
17 I seek RESCISSION of the settlement agreement and mutual release based on
18 mutual mistake, because said settlement agreement and mutual release was the product of
19 such mutual mistake.

20
21 I also seek RESCISSION of the credit giving to ARGONAUT based on the fact the
22 Compromise and Release was SUSPENDED until the LIENS were taken care of and that
23 a Permanent and Stationary Report was written. Defendants have made NO ATTEMPT to
24 comply with this order. Instead they come and petition for a credit. I also seek RESCISSION
25 of the credit based on the fact that to this day there has never been a P & S Report written.

26
27 Dated 06/06/07
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RICK HOLLIFIELD



DIVISION OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD

REJECTION OF D/R

DATE OF SERVICE: 07/03/2001

WCAB CASE NBR(s): SDO 0222978

SOC SEC NBR: [REDACTED]

DATE OF CLAIMED INJURY: 08/28/1996

EMPLOYEE: RICK A. HOLLIFIELD

EMPLOYER: KVAAS CONSTRUCTION COMPAN

INSURER: ARGONAUT INSURANCE CO

COMMENT(S)/REMARK(S):

THE D/R RECVD 06/07/2001 IS REJECTED. ANY OTHER D/R SUBMITTED BEFORE THE DATE OF THIS NOTICE WILL NEED TO BE RESUBMITTED. REASONS FOR REJECTION ARE:
- OTHER: SDO CASE # INCORRECT. DOR IS A COPY NOT ORIGINAL. WCAB REQUIRES ORIGINAL DOCUMENT NOT COPIES.

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WORKERS' COMPENSATION APPEALS BOARD

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 Defendant
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(Place)

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(SEE REVERSE SIDE FOR INSTRUCTIONS)

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Doctor(s) NO P&S REPORT FILED Dated _____
filed and served on _____.

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Adverse parties have (or) have not served me with medical reports.

Copies of this Declaration have been served this date as shown below.

Name (Print or Type) RICK HOLLIFIELD

Declarant's signature *Rick Hollifield*

Address 1042- A South Anza St., El Cajon, Ca 92020 Phone 619-442-1823

Date 07/10/2001

SERVICE

Type or print names and addresses of parties, including attorneys and representatives served with a copy of this Declaration:

Workers Compensation Appeals Board 7575 Metropolitan Dr. Ste # 202, San Diego, Ca., 92108

Argonaut Insurance Company 120 So.State College Blvd., Ste # 100, Brea, Ca 92821-5844

Michael E Jones - Attorney of Record for Argonaut PMB 601007, 5694 Mission Center Rd #368, San Diego, Ca 92

Dean Goetz - My FORMER Attorney 603 No.Coast Highway 101, Solana Beach, Ca 92075

(SEE REVERSE SIDE FOR INSTRUCTIONS)



DIVISION OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD

REJECTION OF D/R

DATE OF SERVICE: 08/09/2001
WCAB CASE NBR(s): SDO 0222978
SOC SEC NBR: [REDACTED]
DATE OF CLAIMED INJURY: 08/28/1996

EMPLOYEE: RICK A. HOLLIFIELD
EMPLOYER: KVAAS CONSTRUCTION COMPAN
INSURER: ARGONAUT INSURANCE CO

COMMENT(S)/REMARK(S):

THE D/R RECVD 07/17/2001 IS REJECTED. ANY OTHER D/R SUBMITTED BEFORE THE DATE OF THIS NOTICE WILL NEED TO BE RESUBMITTED. REASONS FOR REJECTION ARE:
- OBJECTION RECEIVED ON 07/19/2001 IS SUSTAINED
- EFFORTS TO RESOLVE NOT SPECIFIED OR NOT SUFFICIENT