



## Argonaut Insurance Company

SOUTHERN CALIFORNIA DIVISION

needed surgical repair. Since the claimant settled his third party claim and a check was issued on 11/04/98 resolving the third party case, I advised the doctor's office that we were seeking a credit in the workers' compensation case and that the claimant was responsible for payment per Labor Code 3861. Per the claimant's recent lawsuit, the lawsuit states that he did undergo left wrist fusion by different doctor in 3/99.

### Permanent Disability

I advanced a total of \$3000 in permanent disability advances. The estimated amount of permanent disability would be \$16,277.50 that equals 25% in permanent partial disability. We received a credit in the amount of \$128,910.35. This exceeds permanent disability.

### Vocational Rehabilitation

Once again, there is a credit of \$128,910.35 that would exceed the \$16,000 limit allowed for vocational rehabilitation.

### Litigation

The claimant retained an attorney, Dean Goetz, Esq., shortly after the injury date. With the agreement of the applicant's attorney, we had planned to resolve this case via 3<sup>rd</sup> party Compromise & Release with no further monies being paid on the workers' compensation case as he received a \$200,000 settlement in his 3<sup>rd</sup> party case. Since the treating doctor did not issue a permanent & stationary report, the workers' compensation judge would not approve the 3<sup>rd</sup> party Compromise & Release. Therefore, we received a petition for credit in the amount of \$128,910.35 approved by Judge Dieterle at the San Diego Workers' Compensation Appeals Board dated 01/28/99. If the applicant's attorney did not agree with the Petition for Credit, he had the right to appeal. Attorney Goetz did not file an appeal. The statute of limitations is 5 years from the date of injury to continue litigation at the Workers' Compensation Appeals Board. Although our file has been administratively closed, the file is still open at the Workers' Compensation Appeals Board as, technically, the case has not been resolved.

### Plan of Action

We received a Petition for Credit in the amount of \$128,910.35. The Workers' Compensation defendants would owe no further monies on this workers' compensation case until the claimant provides receipts that he was spent this amount for his workers' compensation injury per Labor Code Section 3861. Neither the claimant nor his attorney have communicated with us since the approval of the Petition for Credit.