Bull Dung & Haggle (Rick Hollifield) - Analysis of the Chain of Events

August – October 1998: The Context and Termination

- **August 18, 1998 – Mediation Brief:** Establishes Argonaut's financial exposure in the multi-million-dollar third-party lawsuit involving Olsen Steel while simultaneously acting as the workers' compensation carrier under the Owner-Controlled Insurance Program (OCIP).
- **October 2, 1998 – Benefits Cut Off:** Argonaut terminates HOLLIFIELD Temporary Disability (TD) benefits. The termination is executed without an accompanying written Permanent and Stationary (P&S) or Maximum Medical Improvement (MMI) medical report, violating the continuous payment mandates of *Labor Code Section 4650*.
- **October 5, 1998 – Treatment Record:** A medical office visit occurs (pin removal), but no written P&S report is prepared or issued by the physician.
- **October 6, 1998 – Notice Stopping Benefits:** Argonaut issues the formal notice asserting HOLLIFIELD is P&S and a Qualified Injured Worker (QIW), despite the lack of a formal, written medical report to legally back the claim.

November – December 1998: Unapproved C&R and Case Dismissal

- **October – December 1998 – CorVel Progress Reports:** Progress reports (#34, #35, #36, #37) and the eventual Closing Report from CorVel Case Manager, Doris Harrah, document ongoing, unsuccessful attempts to obtain the missing written P&S report from Dr. Richard Braun.
- **November 3, 1998 – Third-Party C&R Executed:** The Compromise and Release is signed by only HOLLIFIELD & DEAN GOETZ but remains legally pending, awaiting mandatory review and approval by a Workers' Compensation Administrative Law Judge (WCALJ).
- **November 9, 1998 – Dismissal of Third-Party Lawsuit:** A request for dismissal "with prejudice" of the Superior Court lawsuit against Olsen Steel was filed before the WCAB reviewed or approved the underlying C&R. (BY MY ATTORNEY)
- **December 8, 1998 – Pre-Trial Conference & Order Suspending Action (OSA):** The Workers' Compensation Appeals Board (WCAB) judge issues an Order Suspending Action, explicitly refusing to approve the C&R because the mandatory P&S medical reports have not been filed.
- **December 9, 1998 – Medical Evidence of Non-Stabilization:** A communication sheet from the treating surgeon documents that HOLLIFIELD remain temporarily disabled, require additional surgery, and notes a broken plate at the exact site where the pin was

removed on October 5th. This directly contradicts the premise that HOLLIFIELD's condition has stabilized.

December 1998: The Petition for Credit

- **December 30, 1998 – Petition for Credit Filed:** Argonaut's attorney, Michael Nolan, files a dollar-for-dollar Petition for Credit in the amount of $128,910.35. Because the C&R was suspended and benefits were cut off without a valid P&S report, this credit operates to halt further authorized medical care, forcing HOLLIFIELD into self-procured treatment.

Subsequent Internal Acknowledgments

- **April 18, 2000 / April 19, 2000 – Internal Memo & Fax:** An internal memorandum from Dianna Cumpian to Michael Nolan (later faxed to counsel) explicitly acknowledges that the anticipated written P&S report from Dr. Braun was never actually issued, confirming that the factual basis used to halt benefits in October 1998 relied entirely on unverified verbal indications.

This sequence outlines a timeline where the cessation of disability benefits and the pursuit of a third-party settlement explicitly bypassed the statutory requirements for written medical verification, culminating in a suspended settlement and a credit petition that effectively blocked continuous authorized medical treatment.

Based on California workers' compensation law and the procedural rules in effect in **1998**, the actions taken by Argonaut Insurance Company, as documented in my case file, point to clear violations of statutory mandates.

Here is the legal breakdown of the benefit cut-off, the credit petition, and the status of the unapproved Compromise & Release (C&R):

1. Was the Benefit Cut-Off Legal? (No)

Under **1998 California law**, an insurance carrier could not unilaterally stop paying Temporary Disability (TD) benefits simply by declaring an injured worker "Permanent and Stationary" (P&S) or a "Qualified Injured Worker" (QIW) via administrative silence.

- **Violation of Labor Code Section 4650:** This statute mandates that once TD payments begin, they *must continue every 14 days* until the employee returns to work, or until a physician officially declares the worker has reached P&S/Maximum Medical Improvement (MMI) status **in a written medical report**.

- **Violation of CCR Title 8, § 10464:** If an insurer wanted to terminate TD benefits and the worker disputed it, they were legally required to file a formal *Petition to Terminate Liability for Temporary Disability Indemnity* with the WCAB within 10 days of the accumulation of the stoppage. Crucially, they **had to attach the written medical report** justifying the cutoff. Argonaut cut off my benefits on October 2, 1998, without a written report or a valid petition, rendering the termination legally invalid.
- **Violation of CCR Title 8, § 9812:** Insurers were required to issue a formal "Notice of Termination of Disability Indemnity" within 14 days of stopping benefits, which *must* enclose the medical report relied upon.

Because the injury occurred in 1996, the modern 104-week (2-year) statutory cap on TD did not exist. By failing to secure a written doctor's report before stopping checks, Argonaut's actions constituted an **"unreasonable refusal to pay,"** which under **Labor Code Section 5814** triggers a mandatory 10% penalty on the entire class of those benefits, plus back-interest.

2. Bad-Faith Strategy & "Starvation Tactics"

In California, an insurer can face substantial exposure for **Insurance Bad Faith** if they intentionally withhold or delay benefits without a proper legal or medical basis to gain collateral leverage.

My files outline a highly problematic dual-role conflict: Argonaut was simultaneously the workers' compensation carrier under an Owner-Controlled Insurance Program (OCIP/wrap-up insurance) for Kvaas Construction, and the liability insurer facing multi-million-dollar exposure in my third-party lawsuit against Olsen Steel.

By executing an invalid benefit cutoff right before the third-party trial loomed (**rescheduled from 10/23/1998 to 11/20/1998, rescheduled to 12/04/1998**), the timeline indicates an economic "starvation tactic." Abruptly halting an injured worker's cash flow right before a major trial date creates intense economic pressure, heavily incentivizing the worker to break and accept a lower settlement out of desperation.

3. Was Argonaut Legally Required to Continue Benefits on an Unapproved C&R?

Yes. In California, a Compromise and Release has **no legal effect** until it is formally reviewed, approved, and signed by a Workers' Compensation Administrative Law Judge (WCALJ).

- When I signed the third-party C&R on November 3, 1998, it was merely a pending proposal.

- On December 8, 1998, Judge Dietterle issued an **Order Suspending Action (OSA)**, explicitly refusing to approve the settlement because the mandatory P&S medical reports were missing.
- Because the C&R was legally suspended and never became an active, valid order, Argonaut remained fully bound by separate workers' compensation laws. They were legally obligated to maintain my authorized medical care and continuous disability benefits until a judge ruled otherwise, or a proper medical report was generated.

4. Omitted Facts to Obtain a Dollar-for-Dollar Credit

On December 30, 1998, Argonaut's counsel filed a dollar-for-dollar Petition for Credit for $128,910.35. A credit petition allows an insurer to offset future benefits against a third-party recovery. However, executing this credit to block your medical treatment relied on critical omissions of material fact to the WCAB:

1. **Concealing the Lack of a Written Report:** Internal memos (such as the April 18, 2000, Dianna Cumpian memo) later admitted that Dr. Braun had only given a *verbal* indication, and the anticipated written P&S report **was never actually issued**. They omitted this from the court to make the cutoff look legitimate.
2. **Concealing the Objective Medical Failure:** Just one day after the pre-trial conference, on December 9, 1998, medical documentation certified that I was still temporarily disabled, required additional surgery, and that X-rays revealed a **broken plate** at the exact hardware site treated on October 5th.

By omitting the fact that my condition had severely regressed (the failed hardware) and that no formal written P&S report existed, Argonaut successfully pushed through a credit petition. This effectively blocked my authorized, continuous medical treatment, forcing me into self-procured medical care and surgeries out-of-pocket while my own legal counsel failed to file the mandatory objections (under *CCR § 10466*) or request an expedited hearing to stop it.

Based on the record of this case and California legal standards, the actions of both my own counsel and the defense attorney point to severe procedural violations and potential actionable misconduct. My analytical breakdown of attorney abandonment and the legal threshold for perjury regarding the Petition for Credit:

1. Did the Failure to Object Constitute Attorney Abandonment?

In a legal sense, **attorney abandonment** (or gross professional negligence) occurs when counsel fails to perform basic, critical duties, effectively leaving the client without representation and causing direct financial or physical harm.

The actions—and inactions—of my attorneys, Dean Goetz and Richard Sax, provide strong grounds for this argument based on several key procedural failures:

- **Failure to Object to the Benefit Stoppage (Violation of CCR § 10466):** When Argonaut unilaterally cut off my Temporary Disability checks on October 2, 1998, without a medical report, the California Code of Regulations gave my attorneys a clear roadmap. They were required to file a formal objection within 14 days and request an expedited hearing to force the judge to order benefits restored. By staying silent, they allowed the insurer's economic starvation tactic to succeed.
- **Dismissing the Case "With Prejudice" Prematurely:** On November 9, 1998, my counsel requested a dismissal of a multi-million-dollar third-party lawsuit against Olsen Steel *with prejudice* (meaning it could never be refiled). They did this **before** the Workers' Compensation Appeals Board (WCAB) had even reviewed or approved the underlying Compromise and Release (C&R). When Judge Dietterle subsequently issued the Order Suspending Action (OSA) on December 8, 1998, I was left in legal limbo: my civil lawsuit was permanently destroyed, but my workers' comp settlement was completely stalled.
- **The Pre-Trial "No-Show":** Court files note that my attorney failed to appear or adequately protect my interests at the critical December 8, 1998, pre-trial conference where the settlement was suspended.
- **Failure to Appeal the Petition for Credit:** When Argonaut filed for a dollar-for-dollar credit on December 30, 1998, my counsel's failure to legally object or appeal allowed the order to go through. This directly resulted in blocking authorized medical treatment, forcing me into years of self-procured, out-of-pocket medical care for a failed hardware injury (the broken plate).

Under California law, this level of consecutive, catastrophic omissions goes beyond simple administrative oversight; it represents a reckless disregard for a client's foundational legal rights.

2. Did Michael Nolan Commit Perjury in the Petition for Credit?

To prove **perjury** (*California Penal Code Section 118*), it must be shown that a person knowingly and willfully made a false statement under penalty of perjury regarding a *material fact* that they knew to be untrue at the time it was made.

When Argonaut's defense attorney, Michael Nolan, filed the dollar-for-dollar Petition for Credit on December 30, 1998, to halt my medical treatment, the petition relied on what can be legally argued as **fraudulent concealment and intentional misrepresentation of material facts**:

1. **Fabricating the Existence of a Written P&S Status:** The entire justification for stopping my benefits and seeking credit was the assertion that I was Permanent &

Stationary (P&S). However, internal documentation—specifically the **April 18, 2000, internal memorandum from Dianna Cumpian to Michael Nolan**—explicitly admits that Dr. Braun had only given a *verbal* indication, and the mandatory written P&S report **was never actually issued**. Filing a verified petition claiming a legal status exists, while knowing there is no supportive written medical documentation, crosses the line from aggressive advocacy into filing a false verification.

2. **Concealing Active Temporary Disability and Medical Failure:** The Petition for Credit was filed on December 30, 1998. Just three weeks prior, on December 9, 1998, the treating surgeon issued a communication sheet documenting that I was still actively temporarily disabled, required immediate additional surgery, and that X-rays revealed a **broken plate** at the surgical site.

By submitting a signed petition to the WCAB asserting I was stabilized (P&S) while actively concealing both the **failed hardware** and the **internal knowledge that no written P&S report existed**, defense counsel knowingly misled the court. In the context of workers' compensation litigation, presenting an omission this severe to obtain an order that deprives an injured worker of life-altering medical treatment constitutes a profound fraud upon the court.

When an insurance carrier violates statutory mandates and rules—especially regarding the unilateral cutoff of benefits, bad-faith tactics, or committing fraud upon the court—the California Labor Code and the Workers' Compensation Appeals Board (WCAB) provide explicit penalties, sanctions, and remedies.

Under the specific statutory framework governing my **1996 injury timeline**, the applicable laws and procedural rules include the following:

1. Statutory Penalties for Unpaid & Delayed Benefits

When an insurer unilaterally cuts off Temporary Disability (TD) benefits without a formal written medical report or an approved petition, multiple statutory penalties stack:

- **Labor Code Section 4650(d) (Automatic 10% Penalty):**

If any indemnity payment (TD or Permanent Disability) is late or missed, the insurance carrier **must self-impose a 10% penalty** on the overdue amount. This is automatic and does not require a judge's order. Every bi-weekly check Argonaut failed to send me after October 2, 1998, accumulated this 10% penalty.

- **Labor Code Section 5814 (Unreasonable Delay/Refusal Penalty):**

When an insurer *unreasonably* delays or refuses to pay compensation (including medical treatment or TD), the WCAB can issue a severe penalty. Under the historical rules applicable to

injury timeline, an unreasonable refusal triggered a **mandatory 10% penalty assessed against the entire "species of benefit"** delayed.

Note: In a case where the insurer cut off benefits through "administrative silence" right before a trial to enforce an economic starvation tactic, the WCAB routinely found the conduct completely unreasonable, applying the 10% penalty to all past, present, and future benefits within that category.

- **Interest on Unpaid Awards (Labor Code Section 5800):**

All delayed or withheld indemnity payments accrue interest at the legal rate of 7% per annum from the date they originally became due.

2. Court Sanctions for Misconduct and Fraud

If a defense attorney or an insurer omits material facts, conceals a medical regression (such as the December 9, 1998, broken plate), or misleads a judge to push through an order (like the Petition for Credit), they are subject to severe court-ordered sanctions.

- **Labor Code Section 5813 (Bad-Faith Actions and Frivolous Tactics):**

The WCAB has the direct authority to order the insurer or their attorney to pay **reasonable expenses, including attorney's fees and monetary sanctions up to $2,500**, for engaging in "bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay."

- **Contempt Proceedings (Labor Code Section 132):**

If an attorney or claims examiner knowingly submits false evidence, fabricates a permanent and stationary status, or willfully conceals vital medical records from the WCAB, the Appeals Board can initiate **contempt proceedings** against them. Punishments include fines and potential jail time for a fraud perpetrated directly upon the court.

3. Procedural Protections (The Rules They Bypassed)

The California Code of Regulations (CCR) details the strict rules Argonaut violated, which my own counsel failed to weaponize:

- **CCR Title 8, § 10464 (Petition to Terminate Liability):**

An insurer could not just stop paying because they *asserted* I was stabilized. They were required to file this petition within 10 days of the accumulation of the stoppage and **strictly attach the written medical report** proving injured worker was P&S. Failing to do so made the cutoff legally invalid.

- **CCR Title 8, § 10466 (The Applicant's Counterattack):**

This rule gave my attorneys a clear obligation. Upon an illegal benefit stoppage or a faulty petition, my counsel was required to file a formal objection within 14 days and immediately **request an expedited hearing**. By staying silent, my counsel effectively allowed the starvation tactic to succeed.

4. Criminal Penalties for Insurer Fraud

In California, insurance fraud is a two-way street. While most people think of fraud committed by employees, **Insurance Code Section 1871.4** makes it a felony for *anyone* (including insurance defense attorneys and claims examiners) to make knowingly false or fraudulent material statements for the purpose of denying or discouraging a workers' compensation claim.

Submitting a signed, verified Petition for Credit asserting a worker is stable and healed while actively hiding internal knowledge that no written P&S report exists—and that the hardware has broken—crosses the line into criminal misrepresentation.

I declare [or certify] under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Respectfully Submitted,

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Rick Hollifield, In Pro Per