RICK HOLLIFIELD
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RICK HOLLIFIELD, IN PRO PER

BEFORE THE WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA - SAN DIEGO

RICK HOLLIFIELD Plaintiff VS. KVAAS CONSTRUCTION COMPANY, MWWD, ARGONAUT INSURANCE COMPANY Defendant(s).	Case No: ADJ 2940450 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION TO VACATE ORDER OF CREDIT DATE: AUGUST 25,2026 TIME: 1:30 P.M. DEPT: NEIL GILMOR

I. INTRODUCTION

Applicant Rick Hollifield, respectfully submits this Memorandum of Points and Authorities in support of his Petition to Vacate and Set Aside ab initio the January 28, 1999 Order Granting Credit, pursuant to Labor Code § 5803, Code of Civil Procedure § 473(d), and the equitable doctrine of extrinsic fraud.

1. Subversion of Judicial Stay: This matter addresses a severe breach of the duty of candor and a direct subversion of a judicial order. On December 8, 1998, Workers' Compensation Judge Keith F. Dietterle issued an Order Suspending Action freezing all settlement proceedings pending the submission of official Permanent & Stationary (P&S) reports and lien resolutions. In direct defiance of that freeze, Defendant Argonaut Insurance Company filed a verified Petition for Credit on December 30, 1998

2. Defiance and Misrepresentation: Defendant intentionally concealed that

Applicant had suffered an acute hardware failure (a broken wrist plate) and nonunion requiring reconstructive surgery, as diagnosed by treating physician Dr. Richard Braun on December 9, 1998. Because this order was procured through extrinsic fraud and material omissions while the underlying claim remained active, Applicant moves to set aside the credit order, enforce statutory indemnity from October 2, 1998, through January 4, 2001, order medical reimbursement, and issue sanctions.

II. LEGAL ARGUMENT

1. Standard of Review and Continuing Jurisdiction Over An Active Claim

   1. Statutory Authority and WCAB Jurisdiction (§ 5803): The Workers' Compensation Appeals Board (WCAB) possesses broad continuing jurisdiction under Labor Code § 5803 to rescind, alter, amend, or vacate its orders, decisions, or awards upon a proper showing of good cause (Johnson v. Workers' Comp. Appeals Bd. (1970) 2 Cal.3d 964, 975; Smith v. Workers' Comp. Appeals Bd. (1985) 168 Cal.App.3d 1160, 1170; Code Civ. Proc., § 473 (d); Code Civ. Proc., § 473(d). Workers' Compensation Appeals Board Rules of Practice and Procedure, Rule 10452 requires that a petition invoking this jurisdiction state specifically and in detail the facts relied upon as good cause.
   2. Non-Application of the 5-Year Bar (Labor Code § 5804): As an initial procedural matter, because this claim has remained active, unadjudicated, and open, the five-year limitation period under Labor Code § 5804 for altering closed awards has never been triggered. Defendant's own internal Chronological Record Report (Exhibit 16) contains repeated internal admissions dated April 18, 2000, October 27, 2000, September 18, 2025, and February 27, 2026, confirming that the claim remained open, active, and unresolved. The Board retains full continuing jurisdiction under § 5803 to correct a tainted interlocutory order at any time while the underlying case remains open.
   3. Violation of Mandatory Duty of Candor: Furthermore, the duty of candor to the

tribunal is strictly mandated by California Rules of Professional Conduct, Rule 3.3, Business and Professions Code § 6068(d). Where an order is secured through a verified petition that actively suppresses material, shifting medical facts and ongoing judicial stays, those facts constitute a profound violation of the duty of candor and demand that the Board exercise its equitable jurisdiction to vacate the tainted order.

2. Extrinsic Fraud and Perjury Void the 1999 Order ab initio

    1. Legal Standard for Voiding Orders Obtained by Concealment: Good cause under Labor Code § 5803 includes an order issued in ignorance of material facts, a mistake of law or fact, or an order procured via fraud. It is well-established California law that an order or judgment procured through the fraudulent concealment of material facts is void ab initio and subject to equitable rescission without time limitation (Brunski v. Industrial Acc. Com. (1928) 203 Cal. 761; Kulchar v. Kulchar (1969) 1 Cal.3d 467).

3. Violation and Direct Subversion of Judicial Order Suspending Action

    1. Unlawful Bypass of Judicial Order Suspending Action: On December 8, 1998, WCJ Dietterle issued an explicit judicial Order Suspending Action (OSA) on the proposed Compromise and Release (Exhibit 4). This order legally froze all settlement and ancillary credit proceedings pending the actual generation and submission of formal P&S reports.

    2. Denial of Due Process Rendered Order Void: Defendant's ex parte bypass of this judicial freeze on December 30, 1998, constitutes direct defiance of a judicial mandate. Because Defendant sought a credit order on a record they knew was legally frozen and incomplete, the resulting January 28, 1999 order

was issued in violation of procedural due process and is void.

4. Termination of Benefits Constituted Illegal "Self-Help"
    1. Credit Is Not Self-Executing: Third-party credit under Labor Code § 3861 is not self-executing. It requires a formal, legally unencumbered order or an approved compromise before an insurance carrier can stop paying an injured worker (Associated Construction & Engineering Co. v. WCAB (1978) 22 Cal.3d 829).
    2. Mandatory Restoration of Back TTD and Medical Care: Defendant's unilateral termination of Temporary Total Disability (TTD) and medical care in October 1998, prior to any judicial allowance, constituted illegal "self-help" in direct violation of Labor Code §§ 3600 and 4650. Because the credit order was built on an illegal benefit stoppage and maintained through the suppression of Dr. Braun's findings, Defendant remains strictly obligated for back TTD from October 2, 1998, through January 4, 2001, alongside full reimbursement for self-procured medical treatment under Labor Code § 4600.
5. Written Party Admission Proves Actual Knowledge and Bad-Faith
    1. Admissibility of Defendant's Business Records (Evid. Code § 1220): Pursuant to California Evidence Code § 1220, Defendant's own business records constitute binding party admissions. CorVel progress reports (Exhibits 9–12) and Argonaut's internal Chronological Record Report (Exhibit 16) establish that Defendant possessed actual knowledge that no written P&S report existed to support their termination of benefits.
    2. Conclusive Written Admission by Claims Examiner: Specifically, claims examiner Cumpian explicitly admitted in writing on October 27, 2000:

"Since the treating doctor did not issue a permanent & stationary report, the workers' compensation judge would not approve the 3rd party Compromise & Release" (Exhibit 16 [Pg. 4, Lines 24–40]). This admission conclusively proves that Defendant knew the record was legally unready for adjudication, yet they pushed forward with their petition for credit by hiding this reality from the judge.

6. Impermissible Credit Under the San Diego MWWD OCIP Wrap-Up Policy
   1. Co-Insured Status Under Unified Policy: The underlying construction project at Kvaas Construction Co. was governed by an Owner-Controlled Insurance Program (OCIP) established by the City of San Diego / Metropolitan Waste Water Department (MWWD). Under California wrap-up insurance regulations, the project owner, general contractor, and subcontractors operate as co-insureds under a unified umbrella policy.
   2. Legal Elimination of Third-Party Subrogation: Because all parties shared unified coverage under the wrap-up program, true third-party subrogation rights were legally eliminated. Defendant Argonaut Insurance Company could not lawfully claim a Labor Code § 3861 third-party credit against its own wrap-up umbrella. Attempting to do so constitutes an impermissible conflict of interest and an attempt to secure a double-recovery credit fraud.
7. Defendant's Unlawful Cutoff of Benefits Constitutes an Unreasonable Delay Warranting Penalties Under Labor Code § 5814
   1. Statutory Mandate for Penalties: Under Labor Code § 5814, when payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the amount of the payment

unreasonably delayed or refused shall be increased by up to 25 percent or up to $10,000, whichever is less.

8. Unreasonable Refusal Based on Concealed Records: Defendant's intentional "self-help" termination of TTD indemnity and medical authorization in October/December 1998—executed while actively suppressing Dr. Braun's December 9, 1998 surgical diagnosis and defying WCJ Dietterle's stay order—has no genuine legal or medical doubt basis (Kerley v. Workmen's Comp. App. Bd. (1971) 4 Cal.3d 223). Defendant's bad-faith benefit cutoff constitutes an unreasonable refusal of benefits, entitling Applicant to full statutory penalties under Labor Code § 5814 across all past-due TTD and self-procured medical expenses.

III. CONCLUSION

Wherefore, Applicant respectfully requests that the Order Granting Credit dated January 28, 1999 be vacated ab initio, that statutory medical and back TTD benefits from October 2, 1998 through January 4, 2001 be fully restored, and that statutory sanctions be imposed under Labor Code § 5813.

Dated: August 15, 2026,

Respectfully submitted,

Rick Hollifield

RICK HOLLIFIELD, Applicant In Pro Per