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FAILURES THAT NEED TO BE CORRECTED

BY: SCOTT A. O'MARA

The past president of the California Attorneys Association Attorney Gil Stein issued an article that was published in the Santa Cruz Sentinel on July 18, 2024 that speaks to the failure of the workers' compensation system regarding medical care and compensation for the work-related injuries.

Attorney Gil Stein reflects:

Over a century ago California mandated a comprehensive system of workers' compensation, which was to provide a shield to employers from civil liability when an employee is injured on the job and in turn the employee was to be provided benefits such as medical care and wage replacement. Workers' compensation became the exclusive remedy for injured workers. They lost the right to sue their employer for negligence, but were to receive adequate and expeditious compensation and medical care. It became known as the "Grand Bargain." Most workers know that the bargain is not so grand anymore.

He also reflects the minimum wage increased almost 78% to \$16.00 an hour from \$9.00 an hour in 2014. The statewide average weekly wage increased nearly 54% to \$1,642.00 from \$1,067.25 in 2014.

Specifically he acknowledges correctly:

What has not increased in the past decade is the maximum permanent disability compensation rate for workers who through no fault of their own are injured on the job. It remains as it was a decade ago at \$290.00 a week, regardless of income.

Further he indicates:

The \$290.00 maximum PD benefit was set by Senate Bill 863. Stein writes that it was questionable whether \$290.00 a week was adequate compensation in 2014 and says there is no doubt that it's inadequate now.

A very significant aspect that he states is the failure of the medical care to which we have discussed previously and that the Independent Medical Review (IMR) process was created by Senate Bill 863 that fails to provide the medical care. Attorney Stein also discusses the IMR process created by Senate Bill 863 that went into effect on 01/01/2013, and reform bill created an administrative process whereby anonymous doctors look at the Utilization Review (UR) decisions and decide whether denial or modifications were appropriate (GHOST DOCTORS.)

The discussions they have are parallel to what is reflected in my *2023, Issue #1* of the Law1199 Newsletter where the doctors doing their review are in essence Ghost Doctors. (<https://law1199.com/wp-content/uploads/2023/02/NEWSLETTER-2023-ISSUE-1.pdf>).

This ongoing failure of the system needs correction.

Attorney Stein specifically states:

It is time for this governor and Legislature to correct a system that penalizes workers who are injured at work, some of whom end up on the streets because they cannot get timely medical treatment. No one can live on \$290.00 a week. Workers have waited over 10 years. They should not have to wait anymore.

This article in the Santa Cruz Sentinel by Attorney Gil Stein correctly reflects the inadequacies that were previously discussed by me in other articles. The legislative body needs to make corrections so that the “GRAND BARGAIN” that was entered into with the workers many years ago is indeed what the intent was; to provide medical care to cure or relieve the effects of the injury and replacement of wages that are lost.



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