

Agosto./22/2011

Comisión Interamericana de Derechos Humanos

Secretario Ejecutivo:

Cantón, Santiago

1889 F St., N.W.

Washington, D.C., U.S.A. 20006

Pon (202) 458 6215

Fax: (202) 458-3992

Ref.: a Atilano Báez Mejía

Petition P-771-07

United State

Estimado Santiago Cantón

Excelentísimo Sr. Cantón. Usted me da Respuesta muy claro de que la información de mi caso estaba bien qué pero su Asistente la Srta. Elisabeth Abi-Mershed me manda Decir que Que no está completo por lo que el artículo 26 Si una petición no reúne los requisitos exigidos en el presente Reglamento, la Secretaría Ejecutiva **podrá solicitar al peticionario** o a su representante que. Los complete. Su Asistente es la que no me está solicitando mas información. Como puedo hablar de Reglas si no las Entiendo

Pero estoy seguro que usted. Si. **Sr. Cantón**. Porque usted Me dice en su respuesta de la carta de Julio/17/2007 ya se ha Archivado mi Caso con un número **Petition P-771-07** y se me Informara de los Resultados y en la carta January/06/2010 la Evaluación primaria esta Completa. Y su Asistente Le CONTRADICEA USTES

Le mando Más información **No. adicional**. Porque ya esta archivada esta la información Que Ustedes ya tienen. Y. lo de la investigación que demostró la violación de mis derechos Y Información de **Organizaciones** que me estando Apoyando Y LA **DECLARACIÓN UNIVERSAL DE LOSDERECHOS HUMANOS DE LA O.N.U. (1948)**

Yo tengo ya 10 Años Discapacitados. Con Familia. Sin poder Trabajar para sostenerla como Es Debido no Cree Usted **Sr. Cantón** que es DESESPERANTE. Y. Que Además Yo. Tenga que Usar un **APOYO DE UN ANDADOR PARA PODER CAMINAR**

YO LEI DE USTEDES QUE PODIAN ATENDEER CASOS DE EMERGENCIA Y. por eso me **Atreví a. solicitarle una audiencia en mi desesperación por que ya son casi 4 Años que busque su apoyo**

Lo Que. Nunca pensé que también tendría luchar con Ustedes para que se Ayudara Y si le digo si **USTED NO TIENE LA MANERA DE AYUDARME ACUDIRE DE SER NECESRIO A OTROS MESDIOS Y AUTORIDADES QUE SEAN COMPETENTES. QUE NO SE**

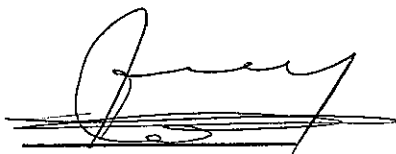
BURLEN DE UN DISCAPACITADO COMO LO HA HECHO SU ASISTENTE la. Srta. Elisabeth
Abi-Mershed

Parecer que hay sufrir un Accidente y quedar Discapacitado para entender el sufrimiento
de los QUE. HEMOS QUEDADO DISCAPACITADOS. Como le su le sucedió **Al Sr. LENIN
MORENO QUIEN ES. VICI-PRESIDENTE DE EL PAIS DE ECUADOR**
Y quien está Apoyando un programa de Ayuda a Discapacitados y ya se ha
Internacionalizado. **SU MISMO SUFRIMIENTO Y FRUSTACION LO HA LLEVADO HA
COMPRERDER LAS NESECIDADES DE LO DISCAPACITADOS**

Y. Sr. Cantón Le suplico por Favor. una respuesta y. seria de. La Situación en la que ha
puesto mi Reclamo Su Asistente. La Srta. Elisabeth Abi-Mershed

Confío en su respuesta sea Responsable Seria y positiva. De no serlo entonces utilizare el
apoyo de los medios de comunicación (MEDIA0) Y. de Organizaciones que ya están en la
mejor disposición de Apoyarme en mi problema.

Esperando su Comprensión



ATILANO BAEZ,
1729 lamplighter Ln
Las Vegas NV.89104
(702) 439-0001

Artículo 26. Presentación de Peticiones

1. Cualquier persona o grupo de personas, o entidad no gubernamental legalmente reconocida en uno o más Estados miembros de la Organización puede presentar a la Comisión peticiones de conformidad con el presente Reglamento, en su propio nombre o en el de terceras personas, referentes a presuntas violaciones de un derecho humano reconocido, según el caso, en la Convención Americana sobre Derechos Humanos o en la Declaración Americana de los Derechos y Deberes del Hombre.

2. Asimismo, la Comisión podrá, motu proprio, tomar en consideración cualquier información disponible que le parezca idónea y en la cual se encuentren los elementos necesarios para iniciar la tramitación de un caso que contenga, a su juicio, los requisitos para tal fin.

Artículo 26. Revisión inicial

1. La Secretaría Ejecutiva de la Comisión tendrá la responsabilidad del estudio y tramitación inicial de las peticiones presentadas a la Comisión que llenen todos los requisitos establecidos en el Estatuto y en el artículo 28 del presente Reglamento.

2. Si una petición no reúne los requisitos exigidos en el presente Reglamento, la Secretaría Ejecutiva podrá solicitar al peticionario o a su representante que los complete.

3. Si la Secretaría Ejecutiva tuviera alguna duda sobre el cumplimiento de los requisitos mencionados, consultará a la Comisión.

INTER - AMERICAN COMMISSION ON HUMAN RIGHTS
COMISION INTERAMERICANA DE DERECHOS HUMANOS
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS
COMMISSION INTERAMÉRICAINÉ DES DROITS DE L'HOMME



ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006

July 17, 2007

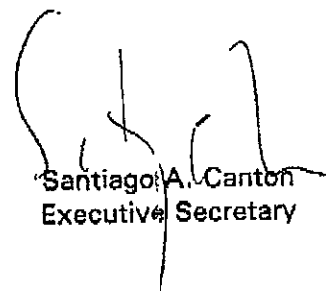
Ref.: Atilano Báez Mejía
Petition P-771-07
United States

Dear Mr. Báez Mejía:

I am pleased to address you on behalf of the Inter-American Commission on Human Rights in order to acknowledge receipt of your communication dated June 8, 2007, received by this Executive Secretariat on June 12, 2007, in connection with your complaint against the United States. The petition has been assigned the number provided in the reference above.

I wish to inform you that the claim you presented is now under study in accordance with the current Rules of Procedure and that the Executive Secretariat of the Commission will be contacting you in due course to inform you of the result.

Sincerely yours,



Santiago A. Canton
Executive Secretary

Atilano Báez Mejía
6442 Duck Hill Spring Drive
Las Vegas, NV 89122

Fax: 702-385-3342



ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006 U.S.A.

January 6, 2010

REF: Acknowledgement of additional information received on January 3, 2010
Atilano Báez Mejía
P-771-07
United States

I write on behalf of the Inter-American Commission on Human Rights to acknowledge receipt of the communication in which you provide additional information related to your petition.

The information provided has been added to the corresponding file, and the petition remains under preliminary evaluation in accordance with the rules governing the procedure before the Commission.

Once the preliminary evaluation is complete, the Commission will contact you to inform you of the results.

Santiago A. Canton
Executive Secretary

Atilano Báez Mejía
Fax: 702-385-3342
1729 Lamplighter Ln
Las Vegas NV, 89104
(702)439-0001



INTER - AMERICAN COMMISSION ON HUMAN RIGHTS
COMISION INTERAMERICANA DE DERECHOS HUMANOS
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS
COMMISSION INTERAMÉRICAINNE DES DROITS DE L'HOMME



ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006 U.S.A.

January 26, 2011

RE: Atilano Báez Mejía
Petition P-771-07
United States

Dear Sir:

I am pleased to address you on behalf of the Inter-American Commission on Human Rights in order to acknowledge receipt of your communications received by this Executive Secretariat on August 24, 2010 and December 1, 16 and 21, 2010, in which you provided additional information regarding the petition referred to above.

Having completed the study set forth in Article 26 of the Commission's Rules of Procedure, I wish to inform you that it will not be possible to process your petition because the information it contains does not satisfy the requirements set forth in those Rules and the other applicable instruments.

Specifically, the information provided does not enable us to determine that it concerns a possible violation of rights protected by the American Convention on Human Rights.

Sincerely,

Elizabeth Abi-Mershed
Assistant Executive
Secretary

Atilano Báez Mejía
1729 Lamplighter Ln
Las Vegas NV, 89104



PAINTERS
SIGN PAINTERS
SCENIC ARTISTS
DRYWALL FINISHERS
PAPER HANGERS
PAINT MAKERS
FLOORCOVERERS
GLAZIERS
GLASS WORKERS

and Allied Industrial Workers

INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES

DISTRICT COUNCIL 15

LOCAL 86 PHOENIX, AZ

LOCAL 159 LAS VEGAS, NV

LOCAL 2001 LAS VEGAS, NV

1701 WHITNEY MESA #105, HENDERSON, NEVADA 89014
(702) 452-2140 • Fax (702) 452-3062

September 21, 2005

To Whom It May Concern:

District Council 15 has reviewed numerous documents concerning the unfortunate experience of Mr. Atilano Baez, with respect to his industrial accident. His treatment by his company's insurance carrier and his company is an indignation and insult to him as an employee and an individual.

Mr. Baez, an Ironworker in Las Vegas, was hurt on the job and sought medical advice regarding his injury. His physician's orders were, if he were to go back to work, he must sit down at all times. He had injured his back, upper legs and knees, and was required to use a walker at all times. Yet upon returning to work, these conditions were not acceptable to his employer who ordered him to continue to work, on his feet, despite the doctor's advice and concern for Mr. Baez's personal welfare. With this, Mr. Baez refused these orders, citing medical injuries. The employer proceeded to fire Mr. Baez, alleviating themselves of all liability of Mr. Baez and his health.

It seems that workers who must deal with insurance companies involving "for-profit" workers' compensation systems are subject to situations where the issues of the workers are not their primary concern. Instead, the interests of the bottom-line of the insurance carrier and the employer are what concern them the most. It seems that the status quo today is for the employers' workers' compensation carrier to deny any claims, forcing the worker to retain a lawyer in order to have their medical issues resolved. Unfortunately, the experiences of Mr. Baez seem to be the norm and not the exception.

On behalf of all workers subjected to such a system of exploitation, there needs to be swift reform. Money spent on treatment and not lawyers would benefit the injured and allow for reduced claims in the end. Unfortunately, it has been our observation that insurance companies and employers are looking for short cuts in an attempt to save money with nonexistent care for the injured worker or his family.

This is a system of injustice that has perpetuated under our noses for quite some time. It is time for a reform of these consistent tragedies.

Sincerely,

John Smirk
BM/ST



***Carpenters / Contractors
Cooperation Committee, Inc.***

September 6, 2005

Senator Harry Reid
United States Senate
Washington, DC 20510-7012

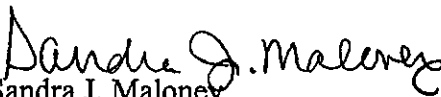
Dear Senator Reid:

On behalf of the Carpenters/Contractors Cooperation Committee (C/CCC), I wish to thank you for the interest you have taken in Mr. Atilano Baez's case. Mr. Baez suffers various ailments related to a 2000 job injury, which appear to have worsened over the years. He sought the assistance of the C/CCC in attempting to resolve his situation. However, there was very little the C/CCC could do to assist Mr. Baez.

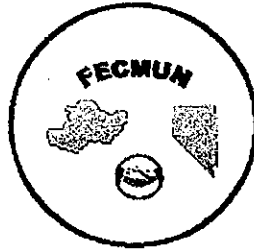
We are glad your office has taken the time to assess Mr. Baez' case and asked the appropriate state agency to review it. The C/CCC's mission to protect the rights of construction workers is not easy to achieve, but it is certainly made more attainable when persons in your position take an active role in advocating for workers.

If you have any questions regarding this matter, please contact the C/CCC at (702) 895-7006.

Sincerely,


Sandra J. Maloney
Director of Field Operations

FEDERACION DE CLUBES MICHOACANOS EN NEVADA



FEDERACION DE CLUBES MICHOACANOS EN NEVADA

August 5, 2005

The Honorable Harry Reid
Senator for the State of Nevada, Democrat

Dear Senator Reid:

We appreciate the excellent job that you and your staff are doing on behalf of the Latino Community, and the needy in general, without regard of race, gender, social status or religion.

It also came to our attention, the help that you gave to Mr. Atilano Baez (see attached copy of letter dated 01/28/2005), in trying to give a satisfactory solution to his problem.

We know it has been about 5 years since he became disabled, and this has caused many problems to him in so many ways, including Family problems.

We know that you, personally, have been trying to help, and for that, we thank you very much.

Mr. Baez ask for our help, and we are giving it to him; and in doing so, so are reinforcing the efforts that you are doing to help him.

Also, we hope that with everybody in the community pulling together for Mr. Baez, he can find a cure to his many problems once and for all.

Thank you one more time for taking the time to read this letter:

For the Federation of "Clubs Michoacanos Unidos de Nevada".

Best regards,



Saul Guizar
President



Sergio Osorio
Vice President



Reveriano Orozco
Clubs Coordinator



MEXICAN PATRIOTIC COMMITTEE OF LAS VEGAS

760 N. Eastern Ave • Las Vegas, NV 89101

(702) 444-4526 Fax (702) 649-2523

NON-PROFIT 501(C)(3) Tax Exempt

September 13, 2005

To whom it may concern:

We, the Mexican Patriotic Committee members are writing you on behalf of Mr. Atilano Baez, who has asked prominent citizens for their assistance on his case. We are requesting for your intervention to see if there is a chance to settle his case, a case that has been in process for several years

Enclosed is more information sent to many well known entities and would appreciate your reviewing of this situation and addressing the concerns raised. Please sent your reply to Mr. Baez. If you wish to contact Mr. Atilano Baez directly for further questions, pleas feel free to contact him at 702-335-7225.

Appreciating your attention and your promptly response. Your response and well wishes will help build the morale and hoping that his case will be resolved.

Sincerely

Eddie Escobedo

President

760 N. Eastern Ave. #110

Las Vegas, Nevada 89101

(702) 444-4526

Atilano Baez

2120 Hinkle Drive #9

DECLARACIÓN UNIVERSAL DE LOS DERECHOS HUMANOS DE LA O.N.U. (1948)

(ADOPTADA Y PROCLAMADA POR LA ASAMBLEA GENERAL EN SU RESOLUCIÓN DE 10 DE DICIEMBRE DE 1948)

PREÁMBULO

Considerando que la libertad, la justicia y la paz en el mundo tienen por base el reconocimiento de la dignidad intrínseca y de los derechos iguales e inalienables de todos los miembros de la familia humana,

Considerando que el desconocimiento y el menosprecio de los derechos humanos han originado actos de barbarie ultrajantes para la conciencia de la humanidad; y que se ha proclamado, como la aspiración más elevada del hombre, el advenimiento de un mundo en que los seres humanos, liberados del temor y de la miseria, disfruten de la libertad de palabra y de la libertad de creencias,

Considerando esencial que los derechos humanos sean protegidos por un régimen de Derecho, a fin de que el hombre no se vea compelido al supremo recurso de la rebelión contra la tiranía y la opresión,

Considerando también esencial promover el desarrollo de relaciones amistosas entre las naciones,

Considerando que los pueblos de las Naciones Unidas han reafirmado en la Carta su fe en los derechos fundamentales del hombre, en la dignidad y el valor de la persona humana y en la igualdad de derechos de hombres y mujeres; y se han declarado resueltos a promover el progreso social ya elevar el nivel de vida dentro de un concepto más amplio de la libertad,

Considerando que los Estados Miembros se han comprometido a asegurar, en cooperación con la Organización de las Naciones Unidas, el respeto universal y efectivo a los derechos y libertades fundamentales del hombre, y

Considerando que una concepción común de estos derechos y libertades es de la mayor importancia para el pleno cumplimiento de dicho compromiso,

La Asamblea General

Proclama la presente Declaración Universal de Derechos Humanos como ideal común por el que todos los pueblos y naciones deben esforzarse, a fin de que tanto los individuos como las instituciones, inspirándose constantemente en ella, promuevan, mediante la enseñanza y la educación, el respeto a estos derechos y libertades, y aseguren, por medidas progresivas de carácter nacional e internacional, su reconocimiento y aplicación universales y efectivos, tanto entre los pueblos de los Estados Miembros como entre los de los territorios colocados bajo su jurisdicción.

ARTÍCULO 1

Todos los seres humanos nacen libres e iguales en dignidad y derechos y, dotados como están de razón y conciencia, deben comportarse fraternalmente los unos con los otros.

ARTÍCULO 2

Toda persona tiene los derechos y libertades proclamados en esta Declaración, sin distinción alguna de raza, color, sexo, idioma, religión, opinión política o de cualquier otra índole, origen nacional o social, posición económica, nacimiento o cualquier otra condición.

Además, no se hará distinción alguna fundada en la condición política, jurídica o internacional del país o territorio de cuya jurisdicción dependa una persona, tanto si se trata de un país independiente, como de un territorio bajo administración fiduciaria, no autónomo o sometido a cualquier otra limitación de soberanía.

ARTÍCULO 3

Todo individuo tiene derecho a la vida, a la libertad y a la seguridad de su persona.

ARTÍCULO 4

Nadie estará sometido a esclavitud ni a servidumbre; la esclavitud y la trata de esclavos están prohibidas en todas sus formas.

ARTÍCULO 5

Nadie será sometido a torturas ni a penas o tratos crueles, inhumanos o degradantes.

ARTÍCULO 6

Todo ser humano tiene derecho, en todas partes, al reconocimiento de su personalidad jurídica.

ARTÍCULO 7

Todos son iguales ante la ley y tienen, sin distinción, derecho a igual protección de la ley. Todos tienen derecho a igual protección contra toda discriminación que infrinja esta Declaración y contra toda provocación a tal discriminación.

ARTÍCULO 8

Toda persona tiene derecho aun recurso efectivo, ante los tribunales nacionales competentes, que la ampare contra actos que violen sus derechos fundamentales reconocidos por la constitución o por la ley.

ARTÍCULO 9

Nadie podrá ser arbitrariamente detenido, preso ni desterrado.

ARTÍCULO 10

Toda persona tiene derecho, en condiciones de plena igualdad, a ser oída públicamente y con justicia por un tribunal independiente e imparcial, para la determinación de sus derechos y obligaciones o para el examen de cualquier acusación contra ella en materia penal.

ARTÍCULO 11

1. Toda persona acusada de delito tiene derecho a que se presuma su inocencia mientras no se pruebe su culpabilidad, conforme a la ley y en juicio público en el que se le hayan asegurado todas las garantías necesarias para su defensa.
2. Nadie será condenado por actos u omisiones que en el momento de cometerse no fueron delictivos según el Derecho nacional o internacional. Tampoco se impondrá pena más grave que la aplicable en el momento de la comisión del delito.

ARTÍCULO 12

Nadie será objeto de injerencias arbitrarias en su vida privada, su familia, su domicilio o su correspondencia, ni de ataques a su honra o a su reputación. Toda persona tiene derecho a la protección de la ley contra tales injerencias o ataques.

ARTÍCULO 13

3. Toda persona tiene derecho a circular libremente ya elegir su residencia en el territorio de un Estado.
4. Toda persona tiene derecho a salir de cualquier país, incluso el propio, ya regresar a su país.

ARTÍCULO 14

5. En caso de persecución, toda persona tiene derecho a buscar asilo, ya disfrutar de él, en cualquier país.
6. Este derecho no podrá ser invocado contra una acción judicial realmente originada por delitos comunes o por actos opuestos a los propósitos y principios de las Naciones Unidas.

ARTÍCULO 15

7. Toda persona tiene derecho a una nacionalidad.
8. A nadie se privará arbitrariamente de su nacionalidad ni del derecho a cambiar de nacionalidad.

ARTÍCULO 16

9. Los hombres y las mujeres, a partir de la edad núbil, tienen derecho, sin restricción alguna por motivos de raza, nacionalidad o religión, a casarse y fundar una familia; y disfrutarán de iguales derechos en cuanto al matrimonio, durante el matrimonio y en caso de disolución del matrimonio.
10. Sólo mediante libre y pleno consentimiento de los futuros esposos podrá contraerse el matrimonio.
11. La familia es el elemento natural y fundamental de la sociedad y tiene derecho a la protección de la sociedad y del Estado.

ARTÍCULO 17

12. Toda persona tiene derecho a la propiedad, individual y colectivamente.
13. Nadie será privado arbitrariamente de su propiedad.

ARTÍCULO 18

Toda persona tiene derecho a la libertad de pensamiento, de conciencia y de religión; este derecho incluye la libertad de cambiar de religión o de creencia, así como la libertad de manifestar su

religión o su creencia, individual y colectivamente, tanto en público como en privado, por la enseñanza, la práctica, el culto y la observancia.

ARTÍCULO 19

Todo individuo tiene derecho a la libertad de opinión y de expresión; este derecho incluye el no ser molestado a causa de sus opiniones, el de investigar y recibir informaciones y opiniones, y el de difundirlas, sin limitación de fronteras, por cualquier medio de expresión.

ARTÍCULO 20

14. Toda persona tiene derecho a la libertad de reunión y de asociación pacíficas.
15. Nadie podrá ser obligado a pertenecer a una asociación.

ARTÍCULO 21

16. Toda persona tiene derecho a participar en el gobierno de su país, directamente o por medio de representantes libremente escogidos.
17. Toda persona tiene el derecho de acceso, en condiciones de igualdad, a las funciones públicas de su país.
18. La voluntad del pueblo es la base de la autoridad del poder público; esta voluntad se expresará mediante elecciones auténticas que habrán de celebrarse periódicamente, por sufragio universal e igual y por voto secreto u otro procedimiento equivalente que garantice la libertad del voto.

ARTÍCULO 22

Toda persona, como miembro de la sociedad, tiene derecho a la seguridad social, ya obtener, mediante el esfuerzo nacional y la cooperación internacional, habida cuenta de la organización y los recursos de cada Estado, la satisfacción de los derechos económicos, sociales y culturales, indispensables a su dignidad y al libre desarrollo de su personalidad.

ARTÍCULO 23

19. Toda persona tiene derecho al trabajo, a la libre elección de su trabajo, a condiciones equitativas y satisfactorias de trabajo y a la protección contra el desempleo.
20. Toda persona tiene derecho, sin discriminación alguna, a igual salario por trabajo igual.
21. Toda persona que trabaja tiene derecho a una remuneración equitativa y satisfactoria, que le asegure, así como a su familia, una existencia conforme a la dignidad humana y que será completada, en caso necesario, por cualesquiera otros medios de protección social.
22. Toda persona tiene derecho a fundar sindicatos y a sindicarse para la defensa de sus intereses.

ARTÍCULO 24

Toda persona tiene derecho al descanso, al disfrute del tiempo libre, a una limitación razonable de la duración del trabajo y a vacaciones periódicas pagadas.

ARTÍCULO 25

23. Toda persona tiene derecho a un nivel de vida adecuado que le asegure, así como a su familia, la salud y el bienestar, y en especial la alimentación, el vestido, la vivienda, la asistencia médica y los servicios sociales necesarios; tiene asimismo derecho a los seguros en caso de desempleo, enfermedad, invalidez, vejez y otros casos de pérdida de sus medios de subsistencia por circunstancias independientes de su voluntad.

24. La maternidad y la infancia tienen derecho a cuidados y asistencia especiales. Todos los niños, nacidos de matrimonio o fuera de matrimonio, tienen derecho a igual protección social.

ARTÍCULO 26

25. Toda persona tiene derecho a la educación. La educación debe ser gratuita, al menos en lo concerniente a la instrucción elemental y fundamental. La instrucción elemental será obligatoria. La instrucción técnica y profesional habrá de ser generalizada; el acceso a los estudios superiores será igual para todos, en función de los méritos respectivos.
26. La educación tendrá por objeto el pleno desarrollo de la personalidad humana y el fortalecimiento del respeto a los derechos humanos y las libertades fundamentales; favorecerá la comprensión, la tolerancia y la amistad entre todas las naciones y todos los grupos étnicos o religiosos; y promoverá el desarrollo de las actividades de las Naciones Unidas para el mantenimiento de la paz.
27. Los padres tendrán derecho preferente a escoger el tipo de educación que habrá de darse a sus hijos.

ARTÍCULO 27

28. Toda persona tiene derecho a tomar parte libremente en la vida cultural de la comunidad, a gozar de las artes ya participar en el progreso científico y en los beneficios que de él resulten.
29. Toda persona tiene derecho a la protección de los intereses morales y materiales que le correspondan por razón de las producciones científicas, literarias o artísticas de que sea autora.

ARTÍCULO 28

Toda persona tiene derecho a que se establezca un orden social e internacional en el que los derechos y libertades proclamados en esta Declaración se hagan plenamente efectivos.

ARTÍCULO 29

30. Toda persona tiene deberes respecto a la comunidad, puesto que sólo en ella puede desarrollar libre y plenamente su personalidad.
31. En el ejercicio de sus derechos y en el disfrute de sus libertades, toda persona estará solamente sujeta a las limitaciones establecidas por la ley con el único fin de asegurar el reconocimiento y el respeto de los derechos y libertades de los demás, y de satisfacer las justas exigencias de la moral, del orden público y del bienestar general en una sociedad democrática.
32. Estos derechos y libertades no podrán en ningún caso ser ejercidos en oposición a los propósitos y principios de las Naciones Unidas.

ARTÍCULO 30

Nada en la presente Declaración podrá interpretarse en el sentido de que confiere derecho alguno al Estado, a un grupo o a una persona, para emprender y desarrollar actividades o realizar actos tendientes a la supresión de cualquiera de los derechos y libertades proclamados en esta Declaración.

SALVATORE C. GUGINO
DANIEL L. SCHWARTZ*
MONTE HALL**
JOHN P. LAVERY***
BARBARA E. SCHUBEL****

GUGINO & SCHWARTZ
1701 WEST CHARLESTON BOULEVARD
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LAS VEGAS, NEVADA 89102

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ALSO ADMITTED IN NEW JERSEY & PENNSYLVANIA*
ALSO ADMITTED IN UTAH**
ALSO ADMITTED IN COLORADO &
DISTRICT OF COLUMBIA***
ALSO ADMITTED IN CALIFORNIA &
DISTRICT OF COLUMBIA****

February 2, 2001

VIA FACSIMILE & U.S. MAIL

John F. Wiles, Esq.
Division Counsel
Department of Business and Industry
Division of Industrial Relations
1301 North Green Valley Parkway, Suite 200
Henderson, Nevada 89015

Re: Claimant : Atilano Baez
Employer : Alpine Steel
Claim No. : SCC0107333

Dear John:

I am unsure if this letter should be sent to your or someone else. However, since you are the Division Counsel, I assume you can either address these concerns or forward this matter to the appropriate party. As always, I appreciate your courtesy.

The facts, as I understand them, are as follows:

A complaint was sent to the DIR by Mr. Baez. Although the complaint was written in Spanish, the essence of Ms. Baez' problem had to do with whether the Employer had provided him with appropriate temporary modified duty. Upon receipt of the complaint, Luisa Carpenelli contacted the Administrator, S & C Claims Services, Inc. During that discussion, Ms. Carpenelli insisted on auditing the claim file the same day. It was explained to Ms. Carpenelli that (a) the Administrator did not even know a complaint had been filed and had no copy of the complaint and (b) the claimant had written the Administrator requesting temporary total disability benefits based upon his allegations and a determination was being rendered. A comment was made by your auditor that "construction companies do not have modified duty". This is simply ludicrous. Ms. Carpenelli insisted on auditing the file that afternoon. My client contacted me and asked what to do in this matter. I advised them to allow Ms. Carpenelli access to the file, but demand that she inform them of the authority for such an impromptu audit. Upon arriving at my client's office, Ms. Carpenelli finally gave my client a copy of the complaint. As for the authority for this audit, Ms. Carpenelli cited to the NAC provision that all files must be maintained in the State of Nevada.

S & C INC
FEB 05 2001

John F. Wiles, Esq.
Page 2

After reviewing the file, Ms. Carpenelli informed my client that she planned to visit the job site of Alpine Steel to determine whether the job offer was valid. I immediately instructed Alpine Steel that they will not allow Ms. Carpenelli on their job site. It is my understanding that Ms. Carpenelli never appeared at the job site. Incidentally, Ms. Carpenelli failed to leave any indication in the file that she had performed an audit. Seems strange?

John, I am very troubled with this action. As you are aware, your agency is mandated with assuring that the NRS and NAC are followed. Nowhere does the law indicate that you are to advocate or investigate the merits of factual complaints.

Mr. Baez was offered modified duty. He felt it was not within his restrictions, so he left. Mr. Baez then requested temporary total disability benefits. Within the time frame for responding to that request, a determination letter was issued denying Mr. Baez' request. Mr. Baez has now appealed and this matter is set for hearing before the Hearing Officer on February 15, 2001.

What is clear is that for some reason, Ms. Carpenelli feels that she is some sort of "super authority". Either she (a) has a personal interest in this case, (b) has some sort of animosity toward my clients or (c) is unaware of her role and role of her agency. Under any of these possibilities, her actions were entirely inappropriate.

I am asking that this matter be fully investigated and a formal response be sent to this office.

Incidentally, the compliant, which Ms. Carpenelli left at my client's office was written in Spanish. Since I can only assume its content, you can consider this letter my client's formal response. Once again, a formal response, after the file was already audited, seems meaningless.

Should you have any questions, please do not hesitate to contact me. Thank you for your professional cooperation in this matter.

Sincerely,

GUGINO & SCHWARTZ


DANIEL L. SCHWARTZ, ESQ.
DLS/sk

cc: Jill Crowley, S & C Claims Services, Inc.
Alpine Steel
Luisa Carpenelli, DIR

S & C INC
FEB 05 2001

KENNY C. GUINN
Governor

STATE OF NEVADA

ROGER BREMNER
Administrator

SYDNEY H. WICKLIFFE, C.P.A.
Director



CHARLES J. VERRE
Chief Administrative Officer

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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
INDUSTRIAL INSURANCE REGULATION SECTION

1301 N. Green Valley Parkway, Suite 200
Henderson, Nevada 89014

March 12, 2001

Melissa C. Blythe
S & C Claims Services, Inc.
3380 W. Sahara Ave., Suite 120
Las Vegas, NV 89102

Re: Injured Employee: Atilano Baez
Claim Number: SCC0107333
Date of Injury: 09/11/00
Employer: Alpine Steel

Dear Ms. Blythe:

The Division of Industrial Relations (DIR), Industrial Insurance Regulation Section (IIRS) received a complaint from the above-mentioned employee on January 22, 2001, concerning light duty and compensation benefits. After further review of the claim file and the additional information supplied to this agency, a determination has been reached.

FINDINGS OF FACT:

On January 23, 2001, this investigator visited with S & C Claims and obtained copies from Mr. Baez' entire claim file for our review, and the following events were found:

On 09/11/00, Mr. Baez received an injury to his right leg. On the same day, he sought medical treatment at Sunset Quick Care, was diagnosed with a right fibula fracture and referred to Dr. Grondel.

On 09/12/00, Dr. Grondel took Mr. Baez off work until 09/15/00 and then light work of sitting duty only. (Per a scribble note in the file, it appears light duty of sitting only was not available until 09/19/00.)

S & C INC
MAR 14 2001

March 12, 2001

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On 09/22/00, Mr. Baez was seen by Dr. Grondel, who took him off work for two weeks.

On 09/22/00, Manager Randall Bulloch sent a letter to your office stating, "Today, Atilano showed up and refused to do the light duty available to him."

On 09/22/00, a report from Michael J. Mills at Alpine steel, stated, "I found Atilano in the detailing room talking to a detailer. I asked him to follow me and told him I had work for him. Upon entering the shop, I realized that he had not followed me. I called to him and asked him to "please get to work, we have some embeds to weld." This is something he can do seated without having to stand or walk. He told me that he just come for his check. I told him that he was not to disrupt our employees and that we did have work for him. He got his check and left."

In a statement written by the injured employee, he explains that on 09/22/00, he presented himself to the Alpine Steel office to pick up his check not to work, because he had an appointment with Dr. Grondel at 12 p.m. However, his bosses insisted that he stay to work. Mr. Baez told them, he was there only to pick up his check and go to his doctor's appointment. He was then told to leave because he was causing problems.

It appears that the letter from Mr. Bulloch failed to mention why did Mr. Baez refused to work, and the report from Mr. Mills does not coincide with Mr. Bulloch's anecdote.

Given the conflicting statements above, it is difficult to believe that Mr. Baez refused to work light duty on 01/04/00, when he had been working light duty since his injury. In Mr. Baez complaint of on 01/18/01, he states that Mr. Castillo told him to report to work in the field. Mr. Baez had restrictions of a sitting job only. When Mr. Baez refused to work in the field, he was rightfully so in refusing. Working in the field did not meet the restrictions imposed by his treating physician.

In your letter of 01/24/01, which is inadequate and not acceptable by the IIRS, you enclosed a copy of a fax memo from Alpine Steel dated 01/09/00 but was not fax to you until 01/23/01 (the date this investigator went to your office to review Mr. Baez' file.) The fax memo states: "On 01/04/01, Atilano Baez was instructed to report to a job out in the field, working at sit-down, light duty job in the field. He refused and went home, putting only 2 hours in at the shop. He has never

S & C IN
MAR 14 2'

called in or showed up for work since. Alpine Steel considers him terminated as of 01/04/00, because of no call/no show and insubordination. This memo is signed by Darlene Aurich at Human Resources.

Pursuant to NRS 616C.475, 8 (a), (b) which states in part:

If certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident is not required to comply with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the division governing vocational rehabilitation services if the employer offers the employee a position that:

- (a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work; and
- (b) Provides a gross wage that is:
 - (1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or
 - (2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury.

After a complete review of Mr. Baez' claim file, this investigator did not find any indication that the adjuster Ms. Blythe had complied with the above given statute. Mr. Baez' was placed in a sitting job duty only immediately after his injury. There is no correspondence or notes that would indicate the adjuster communicated with the employer concerning the injured employee's light duty position. Also, if in fact, a sitting job was going to be provided for Mr. Baez in the field; the file shows no indication from the adjuster trying to insure safety procedures within OSHA regulations were being implemented, given that he did sustain a fracture to his right leg, and to follow the regulations as established by the NRS 616C.475.

DETERMINATION:

Based on the above Findings Of Facts, it is the determination of the IIRS to find S & C Claims Services, Inc., in violation of the NRS 616C.475, 8 (a) and (b). The violation requires a written response from the insurer with supporting documentation. Any responses that do not completely or adequately address the discrepancies will be considered invalid and administrative action may be taken pursuant to the relevant provisions of Chapters 161 and 617 of the NRS OR NAC.

S & C INC
MAR 14 2001

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Page 4 of 4

NOTICE OF CORRECTION: NO1-LV00075

Pursuant to NRS 616D.120, 2 (a), The Administrator hereby orders S & C Claims Services, Inc. to correct the violation pursuant to NRS 616C.475 by paying Mr. Baez, the injured employee, temporary total disability benefits from 01/04/01 to 01/18/01 for failing to comply with NRS 616C.475, 8 (a) and (b).

PLAN OF CORRECTION: PO1-LV00010

Pursuant to NRS 616D. 120, 2 (c) The Administrator hereby orders S & C Claims Services, Inc. to submit a written plan of corrective action which address the above violation, no later than thirty (30) days after the date of this order is received. The plan of corrective action must include written documentation of the specific policies and procedures, which will be implemented together with copies of the same to insure violations of this type, do not occur again.

If you have any further questions, feel free to contact me.

Sincerely,



Luisa Carpenelli
Compliance/Audit Investigator
Industrial Insurance Regulation Section

cc: Jill Crowley
file

S & C INC.
MAR 14 2001

SALVATORE C. GUGINO
DANIEL L. SCHWARTZ*
MONTE HALL**
JOHN P. LAVERY***
BARBARA E. SCHUBEL****

GUGINO & SCHWARTZ
1701 WEST CHARLESTON BOULEVARD
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ALSO ADMITTED IN NEW JERSEY & PENNSYLVANIA*
ALSO ADMITTED IN UTAH**
ALSO ADMITTED IN COLORADO &
DISTRICT OF COLUMBIA***
ALSO ADMITTED IN CALIFORNIA &
DISTRICT OF COLUMBIA****

March 23, 2001

VIA HAND DELIVERY

Roger Bremner
Administrator
Department of Business and Industry
Division of Industrial Relations
1301 North Green Valley Parkway, Suite 200
Henderson, Nevada 89015

Re: Claimant : Atilano Baez
Employer : Alpine Steel
Claim No. : SCC0107333
Our File No. : 331-579

Dear Mr. Bremner:

I am unsure if this letter should be sent to you or someone else. However, since you are the Administrator, I assume you can either address these concerns or forward this matter to the appropriate party. As always, I appreciate your courtesy.

On March 12, 2001, one of your Compliance / Audit Investigators, Luisa Carpenelli, issued the attached letter. (Exhibit "A.") Ms. Carpenelli decided that she should take matters into her jurisdiction which clearly are not. I do find it interesting that not one (1) single person from the Division of Industrial Relations was sent a copy of this letter. This is the first time I have ever seen such an action and I question the reason for it.

Since Ms. Carpenelli did not give my client any appeal remedy, I would request either a formal investigation of her actions or a formal hearing on her findings. Unfortunately, Ms. Carpenelli has inadvertently created a quandary. NRS 616D.140 allows for a formal hearing of a decision of the Administrator to impose an administrative fine or benefit penalty. Since neither of these were imposed, it could be argued that this statute is inapplicable. NRS 616D.150 allows any party who is aggrieved by a decision of the administrator to appeal directly to the District Court. This, too, would appear inapplicable. Because Ms. Carpenelli did not send a copy of her findings to the administrator and there is no evidence that the administrator was either involved or agreed with her findings, I am unsure whether I should appeal an apparent rogue finding by an employee who simply is

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S & C INC.
MAR 26 2001

Roger Bremner, Administrator
DIR
Re: Atilano Baez / Alpine Steel
March 23, 2001
Page 2

exceeding her jurisdiction. Under any circumstance, I will await your reply. Obviously, I cannot let the thirty (30) day period for filing a Petition for Judicial Review expire. Therefore, I would appreciate a response within that time period, if possible.

The facts, as I understand them, are as follows:

A complaint was sent to the DIR by Mr. Baez. Although the complaint was written in Spanish, the essence of Mr. Baez's problem had to do with whether the Employer had provided him with appropriate temporary modified duty. Upon receipt of the complaint, Luisa Carpenelli contacted the Administrator, S & C Claims Services, Inc. During that discussion, Ms. Carpenelli insisted on auditing the claim file the same day. It was explained to Ms. Carpenelli that (a) the Administrator did not even know a complaint had been filed and had no copy of the complaint and (b) the claimant had written the Administrator requesting temporary total disability benefits based upon his allegations and a determination was being rendered. A comment was made by your auditor that "construction companies do not have modified duty." This is simply ludicrous. As the attached indicates, the claimant worked modified / full duty from the date of injury forward. (Exhibit "B.") Ms. Carpenelli insisted on auditing the file that afternoon. My client contacted me and asked what to do in this matter. I advised them to allow Ms. Carpenelli access to the file, but demanded that she inform them of the authority for such an impromptu audit. Upon arriving at my client's office, Ms. Carpenelli finally gave my client a copy of the complaint. (Exhibit "C.") As for the authority for this audit, Ms. Carpenelli cited to the NAC provision that all files must be maintained in the State of Nevada.

After reviewing the file, Ms. Carpenelli informed my client that she planned to visit the job site of Alpine Steel to determine whether the job offer was valid. I immediately instructed Alpine Steel that they should not allow Ms. Carpenelli on their job site. It is my understanding that Ms. Carpenelli never appeared at the job site. Incidentally, Ms. Carpenelli failed to leave any indication in the file that she had performed an audit. Seems strange?

The actual facts are that the claimant was working modified duty. The claimant was transferred to a field job (working under his father). (Exhibit "D.") Instead of working, he went home. Ms. Carpenelli would have known this if she had performed a complete investigation. Upon stopping work, the claimant wrote to my client and requested the reinstatement of temporary total disability benefits. (Exhibit "E.") The date of this letter was January 18, 2001. As you are aware, my client has a statutory time period to respond to this request. The reason they are given thirty (30) days is to fully investigate the allegations made by the claimant.

...

S & C INC
MAR 23 2001

GUGINO & SCHWARZ

Roger Bremner, Administrator
DIR
Re: Atilano Baez / Alpine Steel
March 23, 2001
Page 3

As noted above, Ms. Carpenelli "visited" my client on January 23, 2001. Obviously, they still had over three (3) weeks to render their determination to the claimant. Despite this, she used totally unacceptable tactics and actions.

On January 24, 2001, Mr. Baez was issued a determination letter denying temporary total disability benefits from January 4, 2001 to January 18, 2001. (Exhibit "F.") Mr. Baez appealed this determination. (Exhibit "G.") Pursuant to NRS 616D.120(2), Ms. Carpenelli lost "jurisdiction" over this matter at that time. That did not stop Ms. Carpenelli. The hearing on this matter was continued at the claimant's request and a Decision and Order is forthcoming. (Exhibit "H.")

This brings you up to date. Now, with regard to Ms. Carpenelli's letter, I attempted to sort out her statements. These were clearly not reviewed by anyone, as evidenced by the numerous grammatical, typographical and statutory errors. ✓

Ms. Carpenelli bases her entire findings on a factual conclusion that she drew. Obviously, this is improper.

The basis of Ms. Carpenelli's conclusion is that, under NRS 616C.475, the Third-Party Administrator has a duty to assure that temporary modified duty (which does not even have to be provided in writing) must be proper and that the adjuster may try "to ensure safety procedures within OSHA regulations were being implemented." I have reviewed the NRS, the NAC, and all of the Nevada Court Reporters and I cannot find any authority for this finding. Neither NRS 616C.475, nor the NAC's, contain such a holding. I have absolutely no idea what OSHA regulations Ms. Carpenelli is alluding to in her letter.

Since Ms. Carpenelli has no legitimate authority for her position, I request that you (a) retract her letter and (b) formally investigate her actions.

It should be noted that days after Ms. Carpenelli visited my client, I sent a letter to your agency requesting a review of her actions. (Exhibit "I.") To date, the only response I received was the unprofessional findings of Ms. Carpenelli, which was not sent to you, her supervisor, or any other party.

What is clear is that for some reason, Ms. Carpenelli feels that she is some sort of "super authority." Either she (a) has a personal interest in this case, (b) has some sort of animosity toward my clients, or (c) is unaware of her role and the role of her agency. Under any of these possibilities, her actions were entirely inappropriate.

I am asking that this matter be fully investigated and a formal response be sent to this office.

G & C INC
MAR 26 2001

GUGINO & SCHWARZ

Roger Bremner, Administrator
DIR
Re: Atilano Baez / Alpine Steel
March 23, 2001
Page 4

Should you have any questions, please do not hesitate to contact me. Thank you for your professional cooperation in this matter.

Sincerely,

GUGINO & SCHWARTZ



DANIEL L. SCHWARTZ, ESQ.
DLS/sk

cc: Jill Crowley, S & C Claims Services, Inc.
Alpine Steel
John Wiles, DIR
Charles J. Verre, DIR
Luisa Carpenelli, DIR

S & C INC
MAR 26 2001

KENNY C. GUINN
Governor

STATE OF NEVADA

ROGER BREMNER
Administrator

SYDNEY H. WICKLIFFE, C.P.A.
Director



CHARLES J. VERRE
Chief Administrative Officer

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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
INDUSTRIAL INSURANCE REGULATION SECTION
1301 N. Green Valley Parkway, Suite 200
Henderson, Nevada 89014

April 17, 2001

Daniel L. Schwartz, ESQ.
C/O Gugino & Schwartz
1701 West Charleston Boulevard Suite 500
Las Vegas, Nevada 89102

RE: Claimant: Atilano Baez Claim Number: SCC01017333

Dear Mr. Schwartz,

This is a response to your letter of March 23, 2001 to Roger Bremner. I have discussed the issues raised in your letter with the Southern District Manager Mr. Ken Webb and wish to resolve any misunderstanding, which might have occurred as a result of the complaint response you received from the Industrial Insurance Regulation Section (IIRS) Auditor.

A review of the file shows that Mr. Baez properly appealed the determination by the insurer to deny temporary total disability benefits. At the time the injured worker was in the process of appealing the insurer's determination IIRS had no jurisdiction to intervene on behalf of the injured worker. In the event a decision is rendered and there is an issue regarding timely compliance with the decision the injured worker could then file a complaint, which would be acted upon by IIRS personnel.

Therefore, the determination letter of March 12, 2001 is rescinded. The notice of correction issued in that determination is dismissed with no plan of corrective action required.

It is my wish to have a good working relationship with all regulated entities, and your client S&C Claims Services is no exception. In the future if you have any questions regarding findings provided by IIRS staff, or procedures followed in this office please feel free to contact the District Manager or me any time.

Sincerely,

Handwritten signature of Charles J. Verre in black ink.

Charles J. Verre
Chief Administrative Officer

Cc: Roger Bremner
John Wiles, Division Counsel
Jill Crowley, S & C Claims Services, Inc.
Alpine Steel

S & C INC
APR 19 2001