

INJURED WORKERS'

SB 899 House of Horrors

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COURT RULING ON PENALTIES WILL AFFECT INJURED WORKER'S WIDOW:

Insurer refused, delayed treatment until worker took drug overdose

SACRAMENTO – Governor Schwarzenegger's workers' compensation reforms may undercut an injured worker's widow's ability to provide for her future. A decision last month by the Second District Court of Appeal that SB 899's reductions in insurers' misconduct penalties for repeated failures to provide treatment and compensation to injured workers apply retroactively will deeply affect Carole Sinclair's ability to provide for her future. Ms. Sinclair's husband, injured worker Brandon Curtis Sinclair, died of a drug overdose on April 10, 2004, in despair after years of fighting for timely payment of awarded benefits and needed medical care.

Brandon injured his spine in December, 1989, while working for Construction Electronics/BDT Alarm. Brandon was found to be 100% disabled, and received a lifetime medical award. What seemed like the end of the case was just the beginning of the Sinclairs' nightmare. The insurance carrier, Traveler's, repeatedly failed to provide timely approval for Brandon's treatment, medications, authorizations and payments. The company repeatedly failed to meet its obligations. Traveler's refused to pay pharmacy bills for Brandon's medications, at one point running up a \$20,000 bill and prompting the pharmacist to threaten to cut off Brandon's medications. The Sinclairs had to resort to paying for Brandon's medical care and their household bills with their personal credit card.

Traveler's consistently delayed payments, so that the Sinclairs went three and four months at a time with no payments. The Sinclairs lost their home, because the \$224 per week Brandon received in benefits was not enough to pay the mortgage and household bills. Mrs. Sinclair was to have been paid to provide in-home care for Brandon, but Traveler's owes her more than seven years' back pay! Mr. Sinclair filed two petitions for penalties under Labor Code Section 5814. The carrier argues that the drastically reduced penalties in SB 899 should apply to its past misconduct in the Sinclair case.

California's workers' compensation system cost the Sinclairs their home, their dignity, and Mr. Sinclair's life. Now, the insurance carrier responsible for repeated delays and failure to pay deserved benefits wants to escape the financial penalties it should bear for causing such damage to the Sinclairs.

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Brandon Curtis Sinclair's parents, Conrad and Sammie Sinclair laid the responsibility for Brandon's desperate act of suicide at the foot of the insurance carrier. "He just couldn't keep fighting the insurance company day after day. He finally gave up in despair that he would ever receive the care and compensation he deserved," said Sammie Sinclair. "Insurance carriers are not delivering the care that injured workers need. The carrier constantly delayed payments they had agreed to make. The compensation the insurer offered was not enough to pay for the medical care and medications he needed. My son desperately wanted to return to work. He would have given anything to be able to work again."

Conrad Sinclair said that his son and daughter-in-law had to move to Australia because they were unable to get the medical care Brandon needed and make ends meet in California.

*For additional information regarding this case, please contact Philip Cohen at 619/297-5100.
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