



# JUGE NAPOLITANO

GUILBEAU RULI FRIEMAN APLC

## **1. EMPLOYEE OPENS UP A COMPETING BUSINESS WHILE CLAIMING TO BE DISABLED AND RECEIVING BENEFITS FOR ALLEGED WORK INJURY: JUDGE GRANTS SUMMARY JUDGMENT FINDING 1208 FRAUD**

Patrick Price v. Louisiana Rehab Products Inc. (OWCA No. 19-04503, District 7)

Handling Attorney – Thomas M. Ruli

Price was a prosthetist who alleged an unwitnessed injury to his knee. The claim was accepted and being paid, but every time he was about to get released to work, his complaints increased, he was kept off work and continued to receive WC benefits. The employer happened to have a mutual friend who put him in touch with Tommy Ruli to discuss some of his concerns on the case and suspicions he had about the claimant possibly working. We developed a plan of action and coordinated it with the insurer. During our investigation we learned the claimant was actually working as an independent prosthetist and trying to steal patients away from La Rehab and to switch their care with his independent prosthetists company. He was doing his billing through an independent medical billing company. We obtained copies of his actual billing records and paychecks showing he earned over \$67,000 while he was also receiving WC benefits. He perjured himself about his self-employment. We also obtained surveillance of him moving in a normal fluid fashion and moving his residence (moving furniture, carrying heavy items, etc.). He lied about this as well. The Court granted our Motion for Summary Judgment finding Price committed fraud, and ordered restitution of over \$108,000. The matter was referred to the OWCA Fraud division where it is currently pending.

## **2. PLAINTIFF AND HIS DAD ENAGED IN FRAUD SCHEME AGAINST EMPLOYER AND INSURER: DISMISSED FOR VIOLATION OF SECTION 1208**

Adam Talley v. C. J. Delery Enterprises (OWCA No. 20-07583, District 8)

Handling Attorney – Thomas M. Ruli

Talley and his father were working for employer installing an outdoor pavilion roof cover outside the entrance to West Jefferson Hospital. Talley claimed that as a helicopter flew overhead, it caused large panels of the sheet metal to become airborne, striking Talley multiple times in the back of the head, shoulder and back. Talley was in a manlift approximately 15 feet in the air installing panels when the incident occurred. He was tethered in his lift basket, but claims the panels hit him so hard they knocked off his hard hat, lifted him out of the basket

and he was sprawled face down on the roof. He allegedly was dazed for several minutes. The accident was accepted, and benefits were being paid. A dispute arose over certain medical treatment, and during our handling of the case, we were suspicious of the claim and his allegations. During a more detailed investigation into the occurrence of the accident, plaintiff's story made no sense. The suspicions led to surveillance, which showed Talley and his father to be quite active, which was opposite of what he was telling his doctors. Video surveillance over the course of several days and months showed him engaged in activities such as using his shrimp boat, making repairs on the boat, climbing, bending, lifting, and walking normally, all of which he claimed he was unable to do. Talley's father was in all of the video surveillance and was the primary supporting eyewitness. The entire claim was then denied and a counter suit for Section 1208 fraud was filed against Talley and his father (using the aiding and abetting provision of Section 1208). The exposure on this case was in excess of \$220,000, but with the Motion for Summary Judgment and our evidence, the case was voluntarily dismissed with prejudice.

**3. SECURITY VIDEO SHOWS THAT ACCIDENT DID NOT HAPPEN, PLAINTIFF CONJURED UP ENTIRE CLAIM: DISMISSED FOR FRAUD; EMPLOYEE LOSES JOB**

Tameika Lea v. New Orleans Regional Physician Hospital (OWCA No. 18-03377District 7)

Handling Attorney – Thomas M. Ruli

Ms. Lea had a great job, working for the employer for approximately nine years. Yet she had a history of several small personal injury claims in the previous 10 years, each settling between \$3,500 and \$15,000. She seemed comfortable getting these settlements to supplement her income. So, when an automatic door closing hinge came dislodged when she was leaving work one Friday evening, she decided to make a claim that the automatic door closing hinge fell on her head. Problem number one: the door swung in, from right to left, when opening, swinging towards the wall, thereby making the passageway to the right. Hence the area where she would be exiting through the doorway was nowhere near where the hinge would have fallen (the hinge fell between the door and the wall, whereas the opening of the doorway was to the right of the door opening). Problem number two: There was security video of the incident, and the hinge did not strike the claimant or come anywhere close to her. Due to the security video, we were able to deny the claim quickly. The Monday after the alleged incident, claimant went to her physician's clinic for alleged injuries, and during her initial visit she was diagnosed with the following: post concussive syndrome, anxiety, closed head injury, cervical, thoracic and lumbar sprains, inner ear disorder, and myofascial pain. She was taken off work, and the doctor recommend PT, Chiropractic care, MRI of brain, cervical, thoracic and lumbar spine, evaluation by ENT and a psychologist. After she lied in her deposition, we filed for Section 1208

Fraud and filed a Motion for Summary Judgment. The case was voluntarily dismissed, and Ms. Lea was fired from her job.

**4. VIDEO SURVEILLANCE SHOWS EMPLOYEE LIED ABOUT HIS EMPLOYMENT ACTIVITIES AND PHYSICAL CAPABILITIES: CLAIM DISMISSED FOR SECTION 1208 FRAUD**

Orlando Rubio v. Edgar R. Barnes (OWCA No. 17-07091, District 7)

Handling Attorney – Thomas M. Ruli

Rubio claimed he fell from a scaffold injuring his head and sustaining cervical compression fractures. Case was denied on basis of course and scope issues, but during our investigation, things did not add up on the medical aspect of the case. Subsequent investigation and surveillance showed Rubio to be engaged in construction work and automotive repair activities. He was an undocumented worker and tried to use his status as such as a justification for his activities despite his deposition testimony that he was not working and could not work. He argued that he was being persecuted and mistreated by the system due to his illegal immigrant status when all he was trying to do was “live the American dream and provide for his family here and back in Guatemala.” The judge was not impressed with the feeble plea for sympathy and found that Rubio’s credibility was severely attacked by the video showing him engaged in home renovation work, cabinet installation, and ceramic tile and floor installation work, all of which he claimed he was unable to do because of his alleged injuries. Half way through the trial, the case was dismissed.

**5. EMPLOYEE PERJURES HERSELF ABOUT HER ALLEGD DISABLITY AND PAIN: FACEBOOK POSTS SHOW PLAINTIFF SMOKING MARIJUANA ON LIVE VIDEO STREAMS AT 1:30 a.m., PARTYING WITH FRIENDS. ADDITIONAL VIDEO SHOWS HER WORKING OUT AND PERFORMING SQUATS WHILE ALLEGEDLY DISABLED AND IN TOO MUCH PAIN TO DO ANY TYPE OF WORK**

Tyresheba Chatman v. Collegiate Baton Rouge (OWCA 20-00343, District 8)

Handling Attorney – Thomas M. Ruli

Chatman was arrogant and cocky throughout the claim, playing the system every which way. She used COVID as a basis to remain in Detroit visiting family to avoid going to the doctor. She attended video medical appointments with treating MD, complaining of increasing symptoms and inability to do basic daily activities. We were unable to get an SMO due to her allegedly being stuck in Detroit. Surveillance was performed in Detroit and Social media checks showed Chatman to be extremely active and capable. She perjured herself in her deposition as evidenced by video surveillance and her own Facebook posts and videos. A Motion for Summary Judgment was filed for 1208 Fraud and plaintiff dismissed the case with prejudice.

**6. PLAINTIFF MAKES UP ACCIDENT AND WAS PURSUING TWO CLAIMS AT THE SAME TIME, FOR SAME INJURIES, WITH DIFFERENT DOCTORS AND ATTORNEY FOR EACH CLAIM: JUDGE FINDS 1208 FRAUD and CLAIMANT SUBSEQUENTLY PROSECUTED BY AG'S OFFICE**

Ernie Richard v. National American Sales (OWCA 92-06347, District 9).

Handling Attorney – Thomas M. Ruli

This claimant staged an accident when he claimed he was offloading 55 gallon drums into the back of his delivery truck when he was injured when the pallet broke, causing the 55 gallon drum to fall against him pinning him against other barrels that had already been offloaded. We investigated the details of his claim and then met with all potential fact witnesses which revealed that the claimant's story did not make sense. This is when the red flags popped up, resulting in more aggressive investigation. It revealed that the accident physically could not have happened. We ultimately brought a 55-gallon drum and a pallet into the courtroom and demonstrated that the claimant's story was 100% false because there was no way it could have physically happened. In conjunction with the investigation, we discovered that the claimant was pursuing another lawsuit at the same time, for the same injuries, but had different doctors and a different attorney. Once it was obvious that he was in trouble, he "took the 5th" during cross-examination and refused to answer any questions on cross examination. The court declared him as an unavailable witness because of his refusal to testify, his direct testimony was stricken, and then we introduced all the deposition testimony and other evidence. We received a fraud judgment, he was criminally prosecuted, and we received a judgment on our Reconventional Demand.

**7. HUSBAND AND WIFE TEAM CRIMINALLY PROSECUTED FOR WORKERS' COMPENSATION FRAUD**

Darren and Shannon Rome (OWCA District 7)

Handling Attorney – Thomas M. Ruli

This was a husband and wife scam. The claimant alleged an injury to his back and leg. The medical records contained some inconsistencies as to his physical findings so it was difficult to determine whether he was truly disabled and injured. We obtained video surveillance of the claimant engaged in the renovation of a building that was ultimately going to become a nightclub. Darren listed his wife as one of his key witnesses to support his claim of being injured and disabled, so we also deposed her about her husband's alleged injuries. She would have won an Academy Award for her deposition performance with real tears and all about how bad off her husband was due to the injuries and how his life was ruined and would never be the same. After we obtained video of the claimant performing renovation work on the outside of the building, we had the investigator utilize a hidden camera and go inside the nightclub when the club opened for business. This not only revealed the claimant working, but the

claimant's wife was also there, both behind the bar and in the DJ booth. The wife was also collecting cover charges on the nights when they had live performances. Both perjured themselves in their deposition, so we pursued fraud against both, utilizing the “aiding and abetting” provision of Section 1208. We provided all of our evidence to the fraud division in Baton Rouge. They prosecuted, and the husband and wife team made evening news as they were handcuffed and escorted into the back of a police car. They ultimately pled guilty, and Rome’s father issued a cashier's check to our client for the \$30,000 restitution (which was ordered as part of the criminal sentence).

**8. CLAIMANT BUSTED FOR SCAMMING HIS EMPLOYERS AND WC CARRIER: CRIMINALLY PROSECUTION**

Edward Pittman v. B & D Plumbing (OWCA 92-07837, District 6)

Handling Attorney – Thomas M. Ruli

This claimant staged an accident, and we found evidence of prior claims and what appeared to be a pattern of fraudulent behavior. He was suspected of being part of a group of individuals who repeatedly made WC and personal injury claims. While our case was pending, Pittman made a new claim against another employer. We obtained the records on the new WC claim, we saw that he changed his residential address to reflect a residence a few houses down from the address he had in the first claim, and he transposed numbers on his date of birth and social security number. But the signature on the job application with the 2<sup>nd</sup> employer matched the signature we had in the first case. During the trial for the first case, he claimed he was still disabled, has not been able to work, had not worked, had no subsequent injuries, etc. We presented the court and the claimant with a copy of the information on the alleged second accident with a subsequent employer, along with the subsequent employment records, accident report, recorded statement, etc. We confronted him with everything during cross examination, and he arrogantly maintained his denial, at first. But as we continued to press him and told him we had video surveillance of him, he ultimately confessed everything on the stand. The Judge dismissed the case on the spot and thereafter, Pittman was criminally prosecuted.

**9. FAMILY AFFAIR—CLAIMANT, MOM AND DAD SCHEME TO COMMIT WC FRAUD**

Kelly McChesney v. Dynatech Precision Sampling, Inc. (OWCA 93-03686 District 5)

Handling Attorney – Thomas M. Ruli

This was a particularly fun case because it was a family affair! The claimant alleged that she was injured, was in severe pain, unable to work and totally incapacitated. We attempted surveillance but were unsuccessful in finding her. She claims she lived at home with her parents, but whenever our investigator surveilled that house, she was never seen. Yet we received a tip that she was working at a particular business in downtown Baton Rouge. We set up

surveillance outside this office building and saw the claimant leave the building and get in a car driven by an older gentleman. The investigator followed the vehicle back to the claimant's apartment where she was dropped off (she did not admit to this apartment or address in her deposition or discovery responses). The license plate on the vehicle showed that it belonged to the claimant's father, who was, ironically, an insurance agent. Subsequent surveillance showed a pattern of the claimant's father or mother picking the claimant up in the morning at her apartment, dropping her off at work, and picking her up from work at the end of the day. We deposed both parents about their daughter's condition and disability. Both parents lied under oath, testified that her daughter lived with them, barely left the house, was in debilitating pain, etc. When we proceeded to trial, and in the middle of our cross-examination of the claimant, it became evident to her attorney that we had his client committing fraud. His next two witnesses were the mother and father (who were sequestered witnesses). After we finished the cross-examination, we took a break. Plaintiff's counsel was overheard telling the mother and father, "they know about Kelly working and they know that you have been bringing her to and from work every day." This certainly suggests that the attorney also knew of the fraudulent behavior. Before the trial resumed, they dismissed the case with prejudice. They were turned over to the Fraud division for criminal prosecution.

#### **10. GROSS EXAGGERATION AND MALINGERING SINKS PLAINTIFF'S CASE**

John Stuard v. Jackson Truck & Trailer Repair of La., Inc. (OWCA 18-01228, Dist. 7)  
Handling Attorney – Thomas M. Ruli

He had a compensable accident when he was struck in the side of his face by a spring-loaded chamber on a delivery truck that was having mechanical problems. He was treated for an orbital socket fracture and appeared to have gotten better. However, he saw this accident as his "retirement" and started to play the game. Despite lack of ongoing physical problems, he began complaining incessantly, with increased symptoms such as vertigo, memory problems, shaking, tremors, intractable pain, shuffled gait, use of a cane and need of his wife or son's assistance to get around. He began treating with pain management physicians and plaintiff-oriented medical facilities where a litany of medical treatment was being recommended, including neuropsychological treatment for alleged traumatic brain injury and a spinal cord stimulator. In the pain management records, we noted inconsistencies in his drug test, which failed to show the prescribed substances in his system, yet it was positive for cocaine. This led to further investigation which revealed prior cocaine abuse problem as well as failed drug test in the past. Becoming more suspicious of the claim, we obtained surveillance. On the video, the claimant was not overly active, and he mostly stayed around his house or ran small errands. Yet he walked in a normal, fluid manner, never used a cane, was able to drive his car, did not have tremors, shakes or an altered gait. He did not require anyone's assistance when he was at

home or out and about near his house. Video showed him moving in a normal, fluid fashion. Yet the medical records contained notes about his physical problems: he had with his wife and son with him to assist him into the doctors' offices, he utilized a cane and was noted to be having tremors, shakes, and severe debilitating type symptoms. The SMO documented his physical presentation during the examination to include tremors, stuttering, slow altered gait, needing the assistance of a cane and his wife to ambulate. Video surveillance was in stark contrast to his gross malingering and exaggeration during the deposition and during his medical evaluations. At the deposition, Stuard's wife assisted him into the attorney's office and into the conference room. We deposed her about her husband's condition, and she too perjured herself about his alleged disability. When the discussion of settlement was broached, his attorneys stated they would not be able to discuss settlement until they got a life care plan. At that time, we met separately with the mediator and the plaintiff's attorneys and showed them the surveillance. The case was dismissed with prejudice that week.