

# WORKERS' COMPENSATION SUPPORT NETWORK

30 Allowrie Street  
STAFFORD QLD 4053

Telephone: (07) 3350 1741

## SUBMISSION

FOR  
INQUIRY INTO ASPECTS OF WORKERS' COMPENSATION,  
HOUSE OF REPRESENTATIVES, EMPLOYMENT AND  
WORKPLACE RELATIONS COMMITTEE  
PARLIAMENT HOUSE, CANBERRA ACT 2600

1. THIS SUBMISSION ADDRESSES LACK OF OBLIGATION FULFILLMENTS BY EMPLOYERS, WORKERS COMPENSATION OFFICERS - AS W.C. OFFICER SAID IN EFFECT, WORKCOVER IS LIKE THE EMPLOYER WHILE A WORKER IS INJURED; - AND MEDICAL TRIBUNALS.
2. THOUGH FAIRNESS SUGGESTS GENUINE MISTAKES CAN OCCUR, THE TYPE AND NUMBER OF FAILURES TO FULFILL OBLIGATIONS IS INDICATIVE THAT GENUINE INJURED WORKERS ARE BEING DEFRAUDED OF COMPENSATION BY ENDEMIC SYSTEMIC CONUSION, AS INJURED WORKERS' COMPLAINTS INDICATE.
3. HOW EMPLOYERS DEFRAUD: RECORDS NOT MADE  
FAILURE OF THE EMPLOYERS TO RECORD ACCIDENTS AND INJURIES OF WORKERS, AND TO THEN FALSELY DENY REPORTS OR OBSERVATION OF ACCIDENTS OR WORK INJURIES PREJUDICES INJURED WORKERS' CLAIMS AND DEFRAUDS THEM OF DESERVED COMPENSATION.
4. BREACH OF WORKERS' COMPENSATION ACT (WORKCOVER)  
BREACH OF WORKERS' COMPENSATION (WORKCOVER) ACT OCCURS WHEN THE EMPLOYER FAILS TO INFORM WORKCOVER, WITHIN THREE WEEKS OF ITS RECEIVAL, THAT A REPORT ABOUT WORK INJURY WAS RECEIVED. THIS PREJUDICES THE INJURED WORKER'S CLAIM AND DEFRAUDS HIM/HER OF COMPENSATION.
5. LACK OF NOTICE  
LACK OF NOTICES ON WORKPLACE WALLS, INFORMING WORKERS THAT THE EMPLOYER OR HIS OFFICER MUST RECORD ALL ACCIDENTS, INJURIES, INCIDENTS IN WRITING IS PART OF A FRAUDULENT SYSTEM.

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## 6. FRAUD: WORKERS' COMPENSATION OFFICE

### PREAMBLE:

THE WORKERS' COMPENSATION OFFICE HAS SAID THAT IT IS, IN EFFECT, THE EMPLOYER WHILE A WORKER HAS WORK INJURY. THEREFORE THE FRAUD AND OBLIGATION FAILURES OF WORKCOVER ARE INCLUDED.

## 7. OBLIGATION NOT APPLIED: WORKCOVERS' "STATUTORY CLAIMS PROCEDURES"

FRAUD AND MISAPPROPRIATION OF INJURED WORKERS' COMPENSATION BY WORKCOVER HAPPENS AS FOLLOWS:

IT IS WORKERS' COMPENSATION OFFICERS' JOB TO OBTAIN THE EVIDENCE.

THE W.C. OFFICE "STATUTORY CLAIMS PROCEDURES" SAYS THAT WHEN THAT EVIDENCE SHOWS THAT THE EMPLOYER CONTRADICTS WHAT THE INJURED WORKER SAYS IS WORK THE INJURED WORKER PERFORMED, FOR EXAMPLE, THEN THE W.C. OFFICE MUST GIVE NATURAL JUSTICE TO THE WORKER BY INFORMING THE WORKER ABOUT THE CONTRADICTION.

THEN IT IS STILL THE W.C. OFFICE JOB TO ENSURE IT OBTAINS THE CORRECT EVIDENCE ABOUT WORK PERFORMED.

WHEN THE W.C. OFFICE FAILS TO FULFILL ITS "STATUTORY CLAIMS PROCEDURES" OBLIGATION, IT NOT ONLY DENIES NATURAL JUSTICE TO THE INJURED WORKER, IT DEPRAUDS THEM OF THEIR WORKERS' COMPENSATION.

## 8. WORKCOVER FRAUD AND FALSE CRIMINALISATION

WORKCOVER DEPRAUDED ONE INJURED WORKER BY TREATING A CUMULATIVE WORK INJURY AS AN INSTANT INJURY. W.C. OFFICE IGNORED ONE OF TWO DATES ON AN APPLICATION TO CLAIM THERE IS NO INJURY. BUT THE MEDICAL CERTIFICATE CLEARLY SHOWED THE W.C. OFFICE THE CORRECT YEAR WHEN THE CUMULATIVE WORK INJURY BECAME DISABLING.

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## 9. OBLIGATION FAILURES OF MEDICAL TRIBUNALS

MEDICAL TRIBUNALS OF THE WORKERS COMPENSATION OFFICE WRITE IN THEIR RECOMMENDATIONS TO REJECT CLAIMS, THAT THERE IS "NO REASON TO BELIEVE WORK CAUSED, AGGRAVATED OR ACCELERATED THE INJURY." THEREFORE, THE MEDICAL TRIBUNALS DEMONSTRATE A QUASI-JUDICIARY FUNCTION, BECAUSE WORK IS A LEGAL MATTER OF FACTS, THE W.C. MEDICAL TRIBUNALS SHOULD GIVE NATURAL JUSTICE AS REQUIRED OF TRIBUNALS.

BUT THE MEDICAL TRIBUNALS FAIL THE OBLIGATION TO BE FAIR AND TO GIVE NATURAL JUSTICE WHEN THE TRIBUNAL, ALSO, FAILS TO INFORM INSURED WORKERS WHEN THE EMPLOYER OR WORKCOVER CONTRADICTS THE INSURED WORKERS' STATEMENT ABOUT WORK THE WORKER PERFORMED, OR REPORT ABOUT WORK INJURY.

## 10. LACK OF INDEPENDENCE OF MEDICAL TRIBUNALS.

MEDICAL TRIBUNALS ARE CLAIMED TO BE INDEPENDENT OF WORKERS' COMPENSATION OFFICE.

IN ABOUT 2000 THE TRIBUNALS WERE SHIFTED OUT OF WORKCOVER'S BUILDING IN QUEENSLAND-BRISBANE.

BUT JUST SHIFTING THE GOAL POSTS DOESN'T MAKE THE MEDICAL TRIBUNALS INDEPENDENT.

THE TRIBUNALS HAVE A VESTED INTEREST BECAUSE WORKERS' COMPENSATION OFFICE PAYS THEIR MEDICAL TRIBUNALS.

IT IS WORKCOVER OFFICERS WHO PUT THE EVIDENCE WORKCOVER OBTAINS, BEFORE THEIR MEDICAL TRIBUNALS. WHEN THIS EVIDENCE IS INACCURATE OR MISSING AND WORKCOVER FAILS TO APPLY ITS "STATUTORY CLAIMS PROCEDURES", AND THEN THE MEDICAL TRIBUNALS ALSO FAIL TO INFORM THE INSURED WORKER ABOUT OTHERS CONTRADICTIONS TO THE STATEMENT OF THE WORKER THEN IT IS ARGUABLE THAT ENDEMIC SYSTEMIC COLLUSION HAS HAPPENED TO DEPRIVE INSURED WORKERS.

## 11. BEYOND THEIR POWERS.

A CASE SHOWS THAT MEDICAL TRIBUNAL SAT IN JUDGEMENT ON AN INSURED WORKERS CHARACTER PERSONALITY. BUT NO POWER WAS GIVEN TO WORKCOVERS MEDICAL TRIBUNALS TO JUDGE PERSONALITY/CHARACTER.

THE MEDICAL TRIBUNAL IS ULTRA VIRES (BEYOND ITS POWERS).

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## FRAUD OF MEDICAL TRIBUNALS AND WORKCOVER

12. INJURED WORKERS COMPLAIN THAT BOTH WORKCOVER AND THEIR MEDICAL TRIBUNALS FAIL TO FULFILL THEIR OBLIGATIONS ABUSE POWER, AND DEPRAD INJURED WORKERS.

a) ONE WAY THEY CLAIM THIS HAPPENS IS WHEN W.C. OFFICE CLAIMS SOMETHING OTHER THAN WORK CAUSED THE INJURY - SUCH AS A CAR ACCIDENT THAT NEVER HAPPENED. THE W.C. OFFICE DOES NOT HAVE TO PROOVE WHETHER IN FACT THERE WAS A CAR ACCIDENT, BUT AN EXTRA BURDEN AND STRESS IS PLACED ON THE ALREADY INJURED PERSON.

b) ANOTHER METHOD USED BY WORKCOVER OR THEIR TRIBUNALS TO DEPRAD INJURED WORKERS IS TO SAY THAT BECAUSE THEY HAVE A PRE-EXISTING INJURY THEY CANNOT BE COMPENSATED. THIS IGNORES WORK FACTORS AGGRAVATING OR ACCELERATING INJURY.

THERE SEEMS TO BE NO ACCOUNTABILITY THAT WORKS IN PRACTICE TO REDRESS THESE WRONG-DOINGS, AND LACK OF FAIRNESS, OR TO MAKE WORKCOVER GET ALL THE WORK FACTS.

### MORE PROBLEMS

13. i) A JOURNALIST NOTES THAT MAINLY ONLY WORKERS' COMPENSATION DOCTORS ARE USED BY WORKCOVER, BOTH ON THEIR MEDICAL TRIBUNALS AND THE SPECIALISTS THE W.C. OFFICE SENDS INJURED WORKERS TO SEE.

THE INJURED WORKER OFTEN CANNOT PAY FOR HIS OWN INDEPENDENT SPECIALISTS OPINION.

ii) GENERAL PRACTITIONERS OFTEN WON'T TREAT INJURED WORKERS. ONE DOCTOR HAS A NOTICE ON HIS SURGERY TO THIS EFFECT.

THIS IS BECAUSE IF WORKCOVER CLAIMS THE INJURY IS NOT WORK CAUSED THEN W.C. OFFICE WILL NOT PAY THE DOCTOR. YET IT IS NOT ALLOWED ON MEDICARE

WHEN THE WORKER SAYS IT IS A WORK INJURY. THIS CAUSES MORE STRESS ON ALREADY INJURED PEOPLE. SOME BECOME INJURED FOR LIFE, WHEREAS HAD MEDICAL TREATMENT BEEN GIVEN FORTH WITH THEM WOULD HAVE RECOVERED, THEY FEEL.

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- iii) RECENT RESEARCH SHOWS THAT 25,000 OR MORE MISTAKES ARE MADE A YEAR BY DOCTORS. THERE IS NO REASON TO BELIEVE THAT DOCTORS WORKCOVER USES ARE THE ONLY DOCTORS WHO NEVER MAKE MISTAKES. INJURED WORKER URGENTLY NEED PROTECTION.
- iv) WE NEED AN OPEN AVENUE TO FIND OUT WHICH DOCTORS ARE IN FACT, CORRECT, THE HOSPITALS AND DOCTORS TREATING THE INJURY, OR DOCTORS WITH VESTED INTEREST, PAID BY WORKCOVER.
- IT'S TIME THAT THE OVER-EMPHASIS ON WHAT DOCTORS SAY, WHO NEVER WERE IN THE WORK PLACE WHEN THE INJURY HAPPENED, IS DEEMPHASISED, AND FACTS ABOUT WORK, WITNESSES AND WHETHER WORKCOVER OBTAINED ALL THE FACTS CORRECTLY IS GIVEN A BALANCED AND RIGHTFUL JUST PLACE IN DECIDING INJURED WORKERS CLAIMS.

## SOLUTIONS

14. IN ORDER THAT INJURED WORKERS CAN HAVE ACCESS TO DOCTORS OF THEIR OWN CHOICE, INDEPENDENT OF DOCTORS WITH VESTED INTERESTS, PAID BY WORKCOVER, MEDICARE SHOULD BE ALLOWED TO PAY FOR WORK INJURIES. THIS WILL ENSURE ALL INJURIES ARE TREATED, AND TAKE UNPUE STRESS OFF WORK INJURED PEOPLE. FOR SPECIALISTS THE INJURED WORKER SHOULD BE ALLOWED TO CHOOSE ANY DOCTOR SHE WANTS.
- 15 SPECIAL COURT  
A SPECIAL WORKERS' COMPENSATION COURT NEEDS TO BE SET UP, LIKE A SMALL CLAIMS COURT, TO ASSESS WHETHER WORKERS COMPENSATION OFFICERS OBTAINED ALL THE CORRECT EVIDENCE. COURTS HAVE ALWAYS BEEN ABLE TO DECIDE WHICH DOCTORS OR EXPERTS ARE CORRECT. THERE IS NO REASON COURTS COULD NOT DO THE SAME IN WORK INJURY CASES.

## SUMMARY

FAILURE OF W.C. OFFICE, EMPLOYERS AND MEDICAL TRIBUNAL TO FULFILL THEIR OBLIGATIONS AND PROCEDURES, FAILURE TO RECORD INJURIES, FAILURE TO INFORM INJURED WORKERS ABOUT OTHER CONTRADICTIONS PREJUDICES INJURED WORKERS CASES, UNFAIR COSTS: COSTS TO INJURED WORKERS + THEIR FAMILIES INCLUDE:

- LOSS OF DESERVED WORKERS COMPENSATION
- LOSS OF REHABILITATION + AN OPPORTUNITY TO WORK AGAIN.
- LOSS OF HOMES AND FAMILY AT TIMES.

- INJUSTICE TO INJURED WORKERS DAMAGES SOCIETY -

M. Decker 5. 31-7-2002