

Orange County Father of Four Dies from Industrial Brain Injury

NorGUARD Insurance Company Denies Family Workers' Compensation Death Benefits

Bentley and More LLP – Telling Your Story

Brendy Vasquez-Alonzo rushed home on the evening of July 27, 2018, in a panic after hearing that an ambulance was in route to rush the provider and father of her four young children—Fredy Pelico—to the hospital. Brendy, who had been at work all day herself, had last seen Fredy in good health and in good spirits before he started work early that morning.

Earlier that day, as part of his job duties with Oakwest Services, Inc., Fredy was working on a jobsite in Riverside to landscape and clean city sidewalks. Shortly after lunch, as Fredy was preparing for an afternoon of demanding labor, he went to retrieve a trashcan from the bed of his employer's work truck. Fredy then stepped off the work truck, planted his foot onto slick mulch, fell backwards, and hit his head on the concrete sidewalk. Fredy's co-worker witnessed the fall and testified to *hearing* Fredy's head slam onto the concrete. Fredy was overcome by debilitating dizziness and began vomiting shortly thereafter.

Rather than getting Fredy the lifesaving treatment he needed, his managers—who were at scene of the fall—left Fredy to his own devices. Growing paler and ill by the minute, eventually, Fredy's condition became so severe that his coworkers made the decision to get him help. But lacking guidance and any written head injury protocol, they drove him to his employer's headquarters instead of to the emergency room. There, despite his ghostly appearance, complaints of head pain, and nausea his employer recklessly sent Fredy home.

Less than 15 minutes after Fredy arrived at home, his condition rapidly deteriorated. He was described as pale, lethargic, and teetering on non-responsiveness. His co-worker then phoned the company's supervisor and asked if they should call 911 and send Fredy to the Hospital. The supervisor agreed with the plan, but instructed the co-worker to tell 911 **that the injury did not occur at work**. When 911 was finally dialed, hours after the fall occurred, it was far too late. Fredy was transported via ambulance to a hospital and pronounced brain dead thereafter.

His employer's insurance carrier, NorGUARD, seeks to capitalize on the lies to the paramedic as the emergency room records and hospital history all reflect the material lie that Fredy did not fall at work and denied the death claim. During the deposition of Fredy's supervisor, he testified under oath that he instructed the co-workers to lie to 911 and that he knew his lie was wrong. Nonetheless, NorGUARD continues to dispute the fall occurred at work even though their own investigation confirmed Mr. Pelico struck his head at work on the concrete sidewalk and his condition turned for the worse thereafter.

Moreover, NorGUARD continues to wrongfully deny the claim even though OSHA investigated the case and determined the head injury and subsequent death were work related. NorGUARD maintains their denial of benefits even after the depositions of Oakwest's employees, who all testified under penalty of perjury that Fredy hit his head at work, was in a daze after the incident, and the company's supervisor told them to lie to 911 about where the injury occurred.

This is a blatant improper denial of death benefits to this family of five. The insurance company exploited the supervisor's lie, to conjure up the story that Mr. Pelico's death was unrelated to everything that had transpired earlier at the job site. Despite undisputable evidence that Fredy was exhibiting signs and symptoms of a brain injury and that Fredy was in dire need of medical attention at the site of the fall, NorGUARD is denying his family the death benefits they are legally entitled to in workers' compensation.

At Bentley & More, LLP, we specialize in litigating wrongful denials in the workers' compensation system and will do everything in our power to not only uncover the truth, but to expose the lies within the denial. Stay tuned as we litigate the death claim and our Petition for a Bad Faith Denial.