

COMPENSATION NEWS

MONTHLY REPORT

APPELLATE COURT REVIEWS A WORKERS' COMPENSATION APPEALS BOARD RULING FINDING NO INJURY WAS NOT SUBSTANTIAL EVIDENCE

This is a non published Appellate Court decision that restates previous law.

This is a very significant case for reestablishing existing workers' compensation principles.

The applicant had an admitted injury to his left foot. There was conflicting evidence as to injury to his left great toe. The applicant continued working. He then sought medical treatment for

swelling in the toe and it was determined that he had uncontrolled diabetes. The applicant developed infections which led to several surgical amputations.

The applicant contended the diabetes was "lit up" by the industrial injury and therefore compensable. A trial was held on the issue. The Workers' Compensation Judge (WCJ) determined the foot injury "lit up" the diabetic condition.

The employer filed a petition for reconsideration and the Workers' Compensation Appeals Board (WCAB) reversed the WCJ finding the medical evidence compelled and found the

injury was preexisting and therefore not compensable.

The appellate court reviewed the medicals and found they did not constitute substantial evidence. They indicated the standard is whether the medical evidence indicates within a reasonable medical probability the normal progression of the nonindustrial disease would have resulted in disability irrespective of the industrial injury.

INSIDE THIS ISSUE:

GRIMALDO VS. WCAB

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