

COMPENSATION NEWS

MONTHLY REPORT

THE COURT OF APPEAL ISSUED A PUBLISHED DECISION ON THE ISSUE OF EX PARTE COMMUNICATIONS WITH A PANEL QME

This is a published Court of Appeal case

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

The applicant filed a claim for workers' compensation death benefits.

The case proceeded to a Panel qualified medical evaluator (QME) to determine causation pursuant to section 4062.2.

The QME wrote a report. A deposition was taken of the QME. The QME testified that he had relied on records in his report, but could not identify the source of the information.

The QME telephoned the defense attorney, after the deposition to obtain the records. The defense attorney wrote applicant attorney of the telephone call. The applicant attorney requested the panel QME be stricken under Labor Code section 4062.3, for ex parte communications.

The Workers' Compensation Judge (WCJ) found this not to be an improper ex parte communication. The Workers' Compensation

Appeals Board (WCAB) agreed with the WCJ.

On appeal the appellate court indicated that 4062.3 is very specific. No ex parte communications are allowed at all. The legislature did not intend to provide any exceptions. Therefore, the panel QME was stricken.

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INSIDE THIS ISSUE:

ALVAREZ V. WCAB, SCIF