

COMPENSATION NEWS

MONTHLY REPORT

Court of Appeal indicates 104 weeks of temporary disability runs concurrently for multiple injuries

This is an appellate decision that was published.

This is a significant decision involving interpretation of Labor Code section 4656 (c) (1), which limits temporary disability for a single injury to 104 weeks within a two year period.

The applicant was injured at work in two separate incidents. Both injuries contributed to the applicant's temporary disability.

The case went to trial on

In this issue..

Donald Foster v. WCAB,
Zurich American Insurance

whether the applicant was entitled to one or two periods of temporary disability.

The Workers' Compensation Judge (WCJ) determined that the applicant was entitled to a separate and distinct 104 weeks of temporary disability after the first 104 weeks was paid.

The defendant filed a petition for reconsideration. The Workers' Compensation Appeals Board (WCAB) disagreed with the WCJ and indicated there is only one period and the 104 weeks runs concurrently.

The appellate court on review looked at Labor Code section 4656 (c) (1). The court looked at legislative intent. They looked at SB 899. They indicated this was urgency legislation. The legislation was to provide relief from the current workers'

compensation system. It was to relieve a perceived crisis in skyrocketing costs.

Thus, they interpreted this to mean that the legislature intended Labor Code section 4656 to be a significant narrowing of costs. If they followed the WCJ opinion this could lead to many periods of temporary disability based on the number of injuries the applicant filed. They did not believe this is what the legislature intended. The legislature intended there only be one period of 104 weeks no matter how many injuries were reported.

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