

COMPENSATION NEWS

MONTHLY REPORT

THE COURT OF APPEAL ISSUED A PUBLISHED DECISION ON THE ISSUE ON SPINAL SURGERY SECOND OPINION PROCESS

This is a published Court of Appeal case.

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

The applicant suffered an injury to her back. Her primary treating physician referred her to a spine surgeon who recommended surgery.

The defendant submitted the request to the "Utilization

Review Process" and the request was denied. The applicant was unrepresented at the time and did not object to the denial or seek a second opinion report. Applicant became represented and appealed.

The Workers' Compensation Judge (WCJ) found the denial timely but that defendant did not seek a second opinion pursuant to sections 4062 (b) and 4610, and therefore, ordered surgery.

The Workers' Compensation Appeals Board (WCAB) reversed the WCJ and indicated surgery was not necessary.

The appellate court reviewed both the Brasher and

Cervantes cases. They indicated that at the time of this decision Brasher was good law not Cervantes, therefore, they overruled the WCAB and remanded to authorize surgery or to initiate the second opinion process within 10 days of its order.

The Court details the whole process in the decision.

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**ELLIOTT V. WCAB
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