

COMPENSATION NEWS

MONTHLY REPORT

AN APPELLATE COURT HAS INDICATED THAT YOU MUST APPORTION TO EACH INJURY AND THAT THE “WILKINSON” DECISION IS NO LONGER THE LAW

This is an unpublished decision of the appellate court.

This a very significant case for workers' compensation principles.

The applicant alleged an injury to his back on November 19, 1999. The applicant had another injury to his back on January 27, 2000. The applicant filed an application for adjudication for each injury.

The applicant was seen by an Agreed Medical Examiner (AME). The AME found two specific injuries and gave separate disability for each injury.

The case proceeded to trial and a Workers' Compensation Judge (WCJ) awarded the applicant 47 per cent permanent disability for the first injury and 23 per cent permanent disability for the second injury.

The applicant petitioned for reconsideration alleging that the WCJ should have awarded higher permanent disability utilizing a combined rating pursuant to Wilkinson v. WCAB (1977).

The appellate court indicated that current law precludes the merger of permanent disability ratings. The court analyzed Labor Code sections 4663 and 4664. It also reviewed SB 899. SB 899 repealed former section 4750. It then analyzed Benson v WCAB (2009).

The court determined the Wilkinson decision was no longer good law and that each injury must have its own award.

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**FORZETING V. WCAB
(OCEANO ICE COMPANY)**