

COMPENSATION NEWS

MONTHLY REPORT

AN APPELLATE COURT HAS OVERTURNED A WORKERS' COMPENSATION APPEALS BOARD DECISION GRANTING A SECTION 132 (a)

This is a published decision of the appellate court.

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

The applicant had an industrial injury to his neck. The treating physician took the applicant off work. The applicant had a cervical fusion. The applicant entered in to a Stipulated Finding and Award for 20 per cent

permanent disability with future medical care.

Prior to this, the applicant had applied to return to work. Whether the applicant could return to work was disputed by the employer. The case went to trial. The Workers' Compensation Judge (WCJ) found that the employer was liable for a section 132 (a) violation.

The Workers' Compensation Appeals Board (WCAB) on petition for reconsideration by the employer agreed there was a violation and awarded lost wages.

The appellate court reviewed numerous appellate decisions. They determined that the employer did not discriminate against the employee because the employer did not treat the applicant any different then they treated nonindustrially injured employees. The applicant made no showing that the employer treated him disadvantageously because of his industrial injury.

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