

# COMPENSATION NEWS

MONTHLY REPORT

## THE WORKERS' COMPENSATION APPEALS BOARD CAN NO LONGER AWARD VOCATIONAL REHABILITATION UNLESS THERE WAS A FINAL ORDER

*This is a En Banc decision of the Workers' Compensation Appeals Board (WCAB).*

**T**his is a very significant case for workers' compensation principles.

The applicant alleged a cumulative trauma. The applicant entered into a stipulated Findings and Award for 60% permanent disability. The applicant made a demand for vocational rehabilitation benefits in 2003.

Vocational rehabilitation benefits were originally provided in 2005. The applicant applied for retroactive vocational maintenance allowance in 2008 prior to commencement of benefits in 2005.

A Workers' Compensation Judge (WCJ) did not make an award until January 13, 2009. The defendant appealed.

The WCAB ruled that the repeal of section 139.5 terminated any rights of the applicant since the award was not final before January 1, 2009. There was no saving clause adopted by the legislature.

The WCAB lost jurisdiction over non-vested or inchoate vocational rehabilitation claims. Therefore the applicant was not entitled to the retroactive award.

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**WEINER V. RALPHS  
(WCAB)**

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