

COMPENSATION NEWS

MONTHLY REPORT

THE COURT OF APPEAL ISSUED A DECISION ON WHAT IS AN EXTRAORDINARY EVENT FOR PSYCHIATRIC INJURY

This is a non published Court of Appeal case

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

The applicant filed a claim for workers' compensation for a physical and psychiatric injury. The applicant was suspended from a tree when the trunk of the tree fell hitting him in the chest.

The defendant denied the psychiatric component on the grounds under Labor Code section 3208.3 (a) that the employee was not employed for 6 months. The employee claimed the exception that this was a "sudden and extraordinary event".

The Case went to trial and the Workers' Compensation Judge (WCJ) and the WCJ agreed with the applicant. The defendant filed a petition for reconsideration and the Workers' Compensation Appeals Board (WCAB) overturned the WCJ indicating this was not an "extraordinary" event.

The appellate court indicated that the employee must demonstrate by a preponderance of the evidence that he suffered from a sudden and extraordinary event. In this case the appellate court indicated there was not enough evidence to determine if this was an extraordinary event and remanded it back to the WCAB. They indicated the WCAB decision was not substantial evidence.

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