

COMPENSATION NEWS

MONTHLY REPORT

SUPREME COURT FINDS ATTORNEY FEES PURSUANT TO LABOR CODE SECTION 4607 NOT APPROPRIATE IN DISPUTED MEDICAL CASE

This is a published Supreme Court decision that reverses the decision of the Court of Appeal.

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

The applicants in these consolidated cases had obtained Stipulations with Requests for Awards. Both stipulations included the need for medical care.

In the first case the applicant had a stipulation in 1997. Eight years later the applicant needed epidural injections. The carrier

refused. The applicant appealed and the Workers' Compensation Judge (WCJ) ordered the treatment. Applicant attorney sought attorney fees for obtaining the treatment pursuant to Labor Code section 4607.

In the second case the applicant had a stipulation and the carrier refused to pay for care for diabetes and weight loss. The WCJ ordered the treatment. Applicant attorney also requested fees pursuant to Labor Code section 4607. It was denied.

The Court of Appeal awarded both applicants attorney's fees.

The Supreme Court reviewed the statutory language and indicated the language was very clear. The statute indicates that attorney fees are only to be instituted when a party institutes proceedings to terminate an award.

Here the carriers did not institute proceedings to terminate the entire award of medical care. This would be challenging whether future treatment is needed at all.

Here the carriers were denying specific treatment. When the carrier only denies specific treatment attorney fees will not be awarded pursuant to Labor Code section 4607.

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**Editor: Harvey Brown
Firm: Samuelsen, Gonzalez,
Valenzuela and Brown
Address: 18881 Von Karman #250,
Irvine, CA 92612
Phone: 949-252-1300**