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COMPENSATION NEWS

MONTHLY REPORT

THE COURT OF APPEAL ISSUED A NON PUBLISHED DECISION ON THE ISSUE OF GOOD CAUSE TO REOPEN UNDER LABOR CODE 5803

This is a non published Court of Appeal case

This is a very significant case for workers' compensation principles in that it discusses the current case law.

The applicant was injured in 2002. In 2006 the parties entered into a stipulation with request for award for 35 percent permanent disability.

In 2007 the applicant filed a timely petition to reopen for new and further disability. An AME determined the condition was non industrial and did not know what the original 35 percent was based on. The AME did indicate the applicant was still permanently and totally disabled, as he was at the time of the original stipulation.

The defendant filed a petition to reopen to reduce the award in 2008. The appellate court ruled that labor code section 5804 establishes a five-year statute of limitation and the WCAB had no jurisdiction to lower the award.

The court indicated that you can not rescind a stipulation after the five year period.

The appellate court also indicated that to support an additional award there must be further disability. In this case there was no further disability because the applicant's condition did not change since the original award.

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