

# COMPENSATION NEWS

MONTHLY REPORT

## THE COURT OF APPEAL ISSUED A PUBLISHED DECISION ON THE ISSUE OF INDEPENDENT CONTRACTOR

*This is a published Court of Appeal case.*

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

The applicant suffered injuries to the head, back, neck, shoulder, arm, hand and thumb when he fell from a roof at a diner.

The applicant only worked for the diner on two different occasions. The first time he

trimmed bushes along the roof line. The second time, about a year later, is when he fell while trimming bushes at the roof line. He only worked on those two specific days. He was paid cash by the hour on the first occasion but was not paid on the second day, because he did not complete the work and never sent a bill.

He brought his own tools and arrived in his own truck on both occasions. The employer denied the injury being industrial on the basis the applicant was an independent contractor. The applicant files a claim before the Workers' Compensation Appeals Board (WCAB). The case was heard by a Workers' Compensation Judge (WCJ).

The WCJ ruled the applicant was an employee. The employer filed a petition for reconsideration and the WCAB found the employer did not control the details of the applicant's work and therefore, he was an independent contractor. The Court of Appeal followed the S. G. Borello case to agree with the Board.

**Editor: Harvey Brown**

**Firm: Samuelsen, Gonzalez, Valenzuela and Brown**

**Address: 18881 Von Karman # 250 Irvine 92612**

**Phone: 949 252-1300**

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