

COMPENSATION NEWS

MONTHLY REPORT

AN APPELLATE COURT HAS DISALLOWED VOCATIONAL REHABILITATION THAT WAS AWARDED BY THE WCAB

This is a published decision of the appellate court.

This a very significant case for workers' compensation principles.

The applicant claimed a cumulative trauma and a specific injury. The Workers' Compensation Judge (WCJ) found both injuries compensable in 2003.

In 2004 the applicant requested vocational rehabilitation. The employer

denied the request and no services were offered.

The applicant filed with for benefits with the Rehabilitation Unit. The Rehabilitation Unit eventually awarded the applicant rehabilitation benefits in 2006.

The employer appealed and at trial the WCJ issued a decision indicating the applicant was entitled to vocational rehabilitation in 2008. The employer filed a petition for reconsideration. The Workers' Compensation Appeals Board (WCAB) denied the petition in October 2008 and affirmed the WCJ award of January 2008.

None of the parties raised the issue of whether Labor Code section 139.5 was repealed until this appeal. This appeal was filed after January 1, 2009. The appellate court ruled the applicant was not entitled to vocational rehabilitation because the decision was not final before this appeal was decided.

Editor: Harvey Brown

Firm: Samuelsen, Gonzalez, Valenzuela and Brown

Address: 18881 Von Karman # 250 Irvine 92612

Phone: 949 252-1300

INSIDE THIS ISSUE:

BEVERLY HILTON HOTEL V. WCAB (SAMSON)