

COMPENSATION NEWS

MONTHLY REPORT

THE COURT OF APPEAL ISSUED A PUBLISHED DECISION ON THE ISSUE OF RUBUTTING A RATING OF PERMANENT DISABILITY UNDER THE AMA GUIDES

This is a published Court of Appeal case

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

This applicant had an admitted industrial injury. The applicant saw an Agreed Medical Evaluator (AME) who gave her disability. The AME gave the applicant a loss based upon Activities of Daily Living (ADL).

The case went to trial and

was rated. The rater testified the AMA Guides to Permanent Disability did not permit an AME to compute a Whole Person Impairment (WPI) directly from a ADL loss. The Workers' Compensation Judge (WCJ) allowed rebuttal of the guides and gave the applicant a higher disability.

On Petition For Reconsideration the Workers' Compensation Appeals Board (WCAB) indicated the guides are rebuttable, but could not go outside the four corners of the AMA Guides.

The appellate court indicated in order for the physician to go outside the four corners of the guides or deviate from the guides the physician must explain why and this has to be

substantial evidence. There must be a sufficient evidentiary basis to go outside the guides.

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MILPITAS UNIFIED SCHOOL DISTRICT V. WCAB (GUZMAN)

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