

COMPENSATION NEWS

MONTHLY REPORT

Labor code section 5412 defined in conjunction with Labor Code 5500.5

This is a published decision.

The applicant sustained a work-related industrial injury to the right upper extremity and carpal tunnel syndrome. The applicant worked at one company continuously. During that time the applicant worked for two different temporary agencies. The first company is covered for insurance purposes by California Insurance Guarantee Association (CIGA). The second company was insured by State Compensation Insurance Fund (SCIF).

The applicant first underwent

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medical treatment October 3, 1997. The applicant was given wrist splints, medication, and physical therapy. The doctor released the applicant to modified duties. The applicant worked modified duties until August 7, 1998.

An Agreed Medical Examiner (AME) found the applicant suffered a cumulative trauma (ct) during the whole course of employment from April 4 1995 until August 1998.

The defendant who was not the insurer during the last year, raised Labor code section 5412 at trial alleging the ct started October 3, 1997. Therefore, under Labor Code section 5500.5 the ct should run from October 3, 1996 until October 3, 1997.

The Workers' Compensation Judge (WCJ) found the liability on the last year until August

1998. The Workers' Compensation Appeals Board (WCAB) agreed with the WCJ on petition for reconsideration.

The appellate court redefined the Hollis line of cases without even citing it. The court indicated that "disability" includes both temporary and permanent disability but not medical treatment alone. However, the supplying of wrist splints may imply that there will be permanent disability and, therefore, an earlier date of injury pursuant to Labor Code section 5412.

This is a significant case which needs to be analyzed.

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