

COMPENSATION NEWS

MONTHLY REPORT

Court of Appeal agrees with Costco decision in regard to PD rating schedule

This is an appellate
decision that was not
published

This is a significant
decision from the First
Appellate district.

The applicant had suffered a cumulative trauma injury to her foot during the course of her employment. The applicant saw a Qualified Medical Examiner (QME) in August 2004. The QME did not believe the applicant was permanent and stationary. The QME offered no opinion as to whether the applicant would suffer permanent disability.

The applicant remained temporarily disability until declared permanent and stationary August 16, 2005. Applicant contended the 1997 rating schedule for rating permanent disability should be applied in this case. The defendant contended that the 2005 schedule was mandatory. A trial was held on this issue. The Workers' Compensation Judge (WCJ) found the 1997 schedule applicable. The defendant appealed and the Workers' Compensation Appeals Board (WCAB) affirmed the judges decision. The defendant then filed this writ.

This appellate court reviewed Labor Code 4660 (d). They reviewed the notice requirement Labor Code section 4061.

The appellate court then reviewed Costco Wholesale Corp. V. WCAB (2007).

The court then reversed the WCAB and the WCJ saying that the 2005 schedule applied.

This is now a series of cases that find this way. See my prior newsletters as well as San Francisco Marriott v. WCAB (Yamut)

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