This is the ANSWER of William Wolff, Attorney for Applicant Mario Almaraz.

Preliminarily, William Wolff received the SCIF Petition on 03/14/2009 (see attached envelope exhibit).

Several phone calls were made to SCIF-LEGAL in Bakersfield after rumors of the Petition were heard.

While it is clear that the well considered and scholarly OPINION AND DECISION AFTER RECONSIDERATION needs nothing further from Applicant Attorney, I wanted to be clear of my continuing interest in this case and the principles raised and to explain my delayed response.
DISCUSSION OF SCIF
PETITION FOR RECONSIDERATION

Petitioner writes at length of legislative intent and "Wider Historical circumstances", at one point Defendant seems to insinuate that the Appeals Board has disregarded the legislative intent and "does not have the authority to second-guess the policy decision of the legislative."

What Defendant does not well review is the plain language of the code section.

4660(A), in determining the percentages of permanent disability, "ACCOUNT shall be taken of ...(emphasis added)".

ACCOUNT means to consider.

Defendants contend that in their opinion account means requires incorporation.

Defendants can torture the word "ACCOUNT" through fifteen (15) pages but it still means to consider and it does not mean requires incorporation.

Any and all of their conclusions based on an erroneous and torture definition are just plain wrong.

Further, Code Section 4660(C) is in clear accord with the findings in this case regarding Prima facie evidence of the schedule.

When the words of a statue are clear and unambiguous a further meandering thru legislative history is not required nor useful.

Defendants would further have us believe that the fourth, Paragraph, 4660 (D), is most important. Is consistency, uniformity and objectivity, more important than fairness to the injured
worker? More important than the California Constitution which promises to the injured workers relief from the consequences of an injury? More important than Labor Code 3202 which states that Division 4 of the Labor Code is to be liberally construed to extend benefits for the protection of injured workers. The answer of course is no.

The Legislature in code 4660 (A) allows the work comp system to take account of the AMA Guide and where the AMA is silent on the condition or falls short in fairly describing impairment, then other evidence is not only allowable but necessary.

Finally, Defendants appear concerned about harm to workers caused by a possible delay occasioned by closer review of the impairment. As an Applicant Attorney I foresee no increase in time or money. I foresee only an additional question to a Primary, QME or AME. Do the AMA Guides fairly reflect the injured workers impairment and if not, can you from the 4 corners of the AMA Guide or other respected sources, give and support a fairer estimate of impairment.

That's not so hard or expensive.

Thank you for allowing me to be part of this process

LAW OFFICE OF WILLIAM WOLFF

BY WILLIAM WOLFF
William Wolff, Esq.
940 E. Main Street
Santa Maria, CA 93454

Received 3-14-2009
Envelope from SCIF enclosing petition for reconsideration on Munro Almaraz
VERIFICATION

I, the undersigned, declare that I am the attorney for:
MARIO ALMARAZ

This verification is executed by counsel because the facts stated are within my knowledge. I have read the foregoing ANSWER TO PETITION FOR RECONSIDERATION and know the contents thereof; the same is true of my own knowledge, except as to matters which are therein stated upon information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: 03/16/2009 at Santa Maria, California.

[Signature]

3/16/2009

WILLIAM WOLFF/ATTORNEY AT LAW
PROOF OF SERVICE

State of California
I am employed in the county of Santa Barbara, state of California;
I am over the age of 18 years and not a party to the within action; my business address is:
940 East Main Street, Santa Maria, Ca. 93454

I am readily familiar with the firm's business practice of processing correspondence for mailing. In the
ordinary course of business, the correspondence would be deposited with the United States Postal
Service on that same day with postage thereon fully prepaid at my business address above. I am aware
that on motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than on day after the date of deposit for mailing as listed

On 03/16/2009 I served the foregoing documents described as:
ANSWER TO PETITION FOR RECONSIDERATION

on the interested parties in this action, by placing a true copy thereof in a sealed envelope with postage
thereon fully prepaid, in the United States Mail at my address stated above, addressed as follows:
WCAB
1800 30TH STREET ROOM 100
BAKERSFIELD, CALIF. 93301 HAND DELIVERED ON 3/17/09

WORKERS COMPENSATION APPEALS BOARD
P.O. BOX 429459
SAN FRANCISCO, CALIF. 94142-9459

SCIF-LEGAL-DARREN WANG
1275 MARKET STREET 3RD FLOOR
SAN FRANCISCO, CALIF. 94103-1410
MAILED TO P.O. BOX 3171 SUISUN CITY, CA. 94585-6171

APPLICANT ATTORNEY WILL HAND DELIVER TO
BAKERSFIELD BOARD ON 3/17/09

Executed on: 3/16/2009 at Santa Maria, California.

Law Offices of William Wolff
I declare that I am employed in the County of San Joaquin, State of California. I am over the age of eighteen years and not a party to the within entitled cause. My business address is: 3247 W. March Lane, Stockton, California 95219-2334. On February 27, 2009, I served the attached Petition for Reconsideration on the interested parties in said cause, by placing a true copy thereof, enclosed in an envelope addressed as follows:

Workers' Compensation Appeals Board (Hand Delivered)
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Workers' Compensation Appeals Board (Mailed)
P.O. Box 429459
San Francisco, CA 94142-9459

Law Offices of William Wolff
1818 Niles Street
Bakersfield, CA 93305

Glendale Unit 1 (SA) Claims Department

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice such envelope would be sealed and deposited with U.S. postal service on that same day with postage thereon fully prepaid at Stockton, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 27, 2009, at San Francisco, California.

Cheryl K. Anderson
Cheryl K. Anderson

Mario Almaraz
BAK 0145426; 1078163
02307056