

LAW OFFICE OF WILLIAM WOLFF  
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Santa Maria, California 93454  
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Attorney for Applicant

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State of California  
MAR 26 2009

Workers' Compensation Appeals Board  
SAN FRANCISCO-RECONSIDERATION UNIT

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BAKERSFIELD  
2009 MAR 17 PM 12:07  
DEPT OF INDUSTRIAL RELATIONS  
DWC/WCAB

WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

MARIO ALMARAZ, )

WCAB Case No:ADJ1078163  
BAK0145426

Applicant, )

ANSWER TO PETITION

vs. )

FOR RECONSIDERATION

ENVIROSERVE; STATE )  
COMPENSATION INS FUND )  
Defendants. )

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 statute 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.

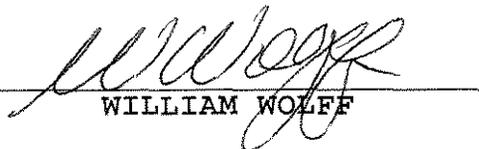
Finally, Defendants appear concerned about harm to workers caused by a possible delay occasioned by closer review of the impairment. As an Applicant Attorney I foresee no increase in time or money. I foresee only an additional question to a Primary, QME or AME. Do the AMA Guides fairly reflect the injured 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

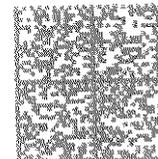
**STATE  
COMPENSATION  
INSURANCE  
FUND**

CLAIMS PROCESSING CENTER  
PO BOX 65005  
PINEDALE, CA 93650-5005

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SCIF 19515

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

Received 3-14-2009  
Envelope from SCIF enclosing  
Petition for Reconsideration on MUNO ALMARAZ

RE: MARIO ALMARAZ  
ADJ 1078163  
(BAR 0145426)

State of California } ss

## 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.

  
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

