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**BREAKING NEWS:**

**Supreme Court Rules in Consolidated cases of Brodie, et al., v. WCAB, et al., that Fuentes Formula A Stands as Method for Calculating Apportionment**

In an opinion issued today, the California State Supreme Court unanimously held that the proper method for calculating permanent disability apportionment under Labor Code §§4663 and 4664 remains consistent with the Court's holding in *Fuentes v. WCAB* (1976), 16 Cal. 3d 1, 547 P.2d 449, 128 Cal. Rptr. 673, 41 Cal. Comp. Cas 42, to subtract the percentage of non-industrial disability (Labor Code §4663) and/or previously awarded permanent disability (Labor Code §4664) from the overall level of permanent disability.

By way of example, the Court indicated that where an employee suffers overall disability of 60%, and it is found that there was permanent disability of 30% caused by non-industrial factors or a previous award, the defendant is liable for an overall permanent disability of 30% as the non-industrial or previously awarded disability of 30% is to be subtracted from the existing disability of 60%, as per the holding in *Fuentes*.

In reaching their conclusion, the Court conducted a thorough review of the Legislative history of Senate Bill 899 and of prior cases addressing apportionment. In doing so, the Court reasoned that there was no evidence of any intent by the legislature to change the manner in which apportionment is calculated. The Court continued, noting that the principle of liberally construing the Labor Code (§3202) to provide benefits is to be applied where there is ambiguity in the law. Here, the Court found no ambiguity in Labor Code §§4663 or 4664 that would lead to the application of a liberal construction

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