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**Dear Subscriber,**

**WCAB To Revisit AMA Permanent Disability Rating Rebuttal Cases After Granting Reconsideration and Issuing Order Allowing Further Briefing.**

In a surprise turn of events, after issuing an en banc decision the WCAB granted reconsideration of their en banc decision in *Wanda Ogilvie v. City and County of San Francisco*, (2009) 74 Cal. Comp. Cases 248 (February 3, 2009) and also in *Mario Almaraz v. Environmental Recovery Services (aka Enviroserve), State Compensation Insurance Fund, and Joyce Guzman v. Milpitas Unified School District*, (2/3/2009) 74 Cal. Comp. Cases 201 (*Almaraz/Guzman*)

In both of the Orders Granting Reconsideration, the WCAB stated "*we conclude that reconsideration must be granted to afford us a sufficient opportunity to study the issues raised...*" (emphasis added.)

The WCAB set forth a schedule for further briefing in the form of Amicus Briefs and responses of the parties. In allowing the Amicus Briefing, the WCAB noted "*we are aware that our en banc decision has been the subject of much comment and debate in the workers' compensation community and even the broader public. Therefore, we infer there may be significant interest in filing amicus briefs. Also, we believe that amicus curiae briefs may aid our deliberations by giving us a broader perspective on the issues, by assisting us in analyzing those issues, and by helping to ensure that all sides of those issues are fairly and completely presented.*" (emphasis added.)

The WCAB provided until 5 pm on May 1, 2009 for the submission of Amicus Briefs from interested parties, with a 15 page limit. Thereafter, the parties to the case will have until 5 pM on May 21, 2009 to file a single responsive brief to the Amicus briefs submitted, also no more than 15 pages.

We will continue to closely monitor the events in these pivotal cases and update you as further developments occur.

Again, we thank you for your interest in FS&K Work Comp News and look forward to keeping you informed on the Workers' Compensation issues that most affect you.

Sincerely,  
**The FSK Newsletter Team**  
Jason C. Hilfrink  
(Chief Legal Editor)

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