



New Case Brief
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State Comp. Ins. Fund v. WCAB (Echeverria)
(2007) <http://www.courtinfo.ca.gov/opinions/>

The First Appellate District annulled a decision of the WCAB that applied the old PD schedule to a case where the treating physician made the statement “I believe permanent disability is within reasonable medical probability emanating from this injury.”

Jose C. Echeverria was injured on July 21, 2004 sustaining injury to his right ankle and low back. On November 15, 2004 his counsel faxed a letter to his treating physician asking the physician to sign and date the statement made above. The doctor did sign the statement and the WCAB agreed with the WCJ that that statement, read in light of the doctor’s other reports constituted a “report by a treating physician indicating the existence of PD” within the meaning of section 4660(d).

The Appellate Court held that the decision of the WCAB was not substantial evidence since the “other reports” of the PTP did not support the idea that applicant had PD in November of 2004. Rather, the Court found that “nothing in the reports, however, appears to tie the range of motion and pain symptoms to Dr. Morales’s December 15, 2004 prediction of PD. To the contrary, the reports make no mention at all of prognosis, but instead simply declare that Echeverria remained TTD.”