



New Case Brief
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CIGA v. WCAB (Hooten)
(2005) 128 Cal.App.4th 569, 70 CCC 551 [Court of Appeal]

California Insurance Code sections 1063.1(c)(5) and (c)(9)(ii) exempts CIGA from claims of contribution, indemnity and subrogation brought by a Workers' Compensation insurance carrier regardless of the type of claim.

Applicant had four separate claims of injury all involving an injury to his left shoulder. The first claim was a specific injury that was covered by CIGA following the liquidation of the original insurer. Argonaut Insurance Co. covered the remaining three claims. Applicant settled all four claims simultaneously by way of Compromise & Release. In said Compromise and Release Argonaut reserved it's right to seek contribution and reimbursement from CIGA. The WCAB ruled that CIGA was liable to reimburse Argonaut for benefits paid to the Applicant, in connection with his specific injury, finding that Argonaut had a 'covered claim' against CIGA since no other solvent insure was on the risk for the Applicant's specific injury.

In CIGA v. Workers' Comp. Appeals Bd. (Apr. 7, 2005, B172056) ___ Cal.App.4th ___ (Weitzman), the Appellate court ruled that a Workers' Compensation insurance carrier does not have a 'covered claim' against CIGA because the duty to cover a claim fall upon an insurer, and CIGA is not an insurer. Therefore, the Workers' Compensation insurance carrier may only bring a claim of contribution, indemnity or subrogation against CIGA, and these claims are barred by California Insurance Code sections 1063.1(c)(5) and (c)(9)(ii). Yet, this decision was made in the context of a joint and several liability claim.

Here, on appeal, the court followed Weitzman and held that California Insurance Code sections 1063.1(c)(5) and (c)(9)(ii) excluded Argonaut's claim against CIGA, even absent joint and several liability. The court reasoned that the code does not differentiate between joint and several liability claims and other types of claims. Further the code exempts CIGA from "any obligations to other insurer." Accordingly, an insurer does not have a 'covered claim' against CIGA, even on a specific injury. Thus, CIGA is immune from claims of contribution, indemnity or subrogation

brought by a solvent insurer on a specific injury claim, even absent joint and several liability.