



New Case Brief
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Nelly Romero v. Costco Wholesale
(June 14, 2007) xx CCC xxx [Panel Decision, Caplane, Murray, Miller]

Although we have a new commissioner on the Workers Compensation Appeals Board, the Nelly Romero case brings to mind the adage of “what is old is new again.” A panel of the Workers Compensation Appeals Board has found that an applicant in pro per can ignore the law, delay proceedings, frustrate medical-legal discovery, and undertake doctor shopping all with the blessing of the WCAB.

In Romero, the applicant was initially unrepresented. A dispute arose over a request for physical therapy; the employer requested the medical unit to issue a QME panel comprised of three medical doctors. On May 22, 2006, the medical unit issued the QME panel. However, on May 18, 2006, applicant became represented changing treating physicians to a chiropractor. The applicant refused to attend the QME panel appointment requesting a new panel based on chiropractors rather than orthopedic surgeons.

The trial judge granted applicant’s request for a new panel of three chiropractors. The WCAB commissioners’ panel agreed with the trial judge finding that because the applicant refused to attend a scheduled medical appointment she had not “received a comprehensive medical-legal evaluation”. Thus, the applicant had a right to obtain a new panel because she was now represented by an attorney. The moral of the story is for employers and adjusters to obtain orders from the Workers Compensation Judge as soon as possible to compel applicants to attend evaluations prior to retaining counsel.