



## **CAUSATION and LACK OF SUBSTANTIAL EVIDENCE**

In A. Teichert & Sons, Inc. v. WCAB (Barron), (12-9-08) Court of Appeal 3<sup>rd</sup> Dist., No. C057780, 37 CWCR 4, certified for nonpublication, a cement mason became angry while arguing with his supervisor and was found shortly thereafter unresponsive in his truck, and was pronounced dead. The cause of death was a cerebral hemorrhage resulting from the rupture of an artery or aneurysm. Dr. Rolf Scherman the QME determined that it was medically possible that the decedent became angry at his supervisor, and suffered a rise in blood pressure which ruptured his aneurysm, but that this was just one possible scenario which he could not prove or disprove with reasonable medical probability. Dr. Scherman stated that it was not known whether there had been a spike in blood pressure.

The WCJ found that Dr. Scherman's opinion was sufficient to prove a causal connection based upon the holding in McAllister v. WCAB (1968) 33 CCC 660, that medical certainty is not required and that the connection need not be proven in detail. The WCJ found by a preponderance of evidence that anger can lead to a rise in blood pressure that can in turn cause an aneurysm to rupture. A panel of commissioners adopted the WCJ opinion and denied reconsideration.

The Court of Appeal reversed holding that there was no substantial evidence that the death arose out of employment. The decisive factor is whether it is reasonably probable that the work place anger caused the aneurysm to rupture. Since Dr. Scherman found that it was only a possible scenario and did not conclude it was reasonably probable, his opinion could not be substantial evidence.

This case illustrates the importance and difference between a doctor stating that something is "medically possible" vs a finding of being "reasonably probable". The correct standard for a medical opinion to be substantial evidence is that a physician must determine that his or her opinion is based on a "reasonable medical probability."