



New Case Brief
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December 18, 2007

Benson v The Permanente Medical Group
72 CCC _____ (12/13/07, WCAB en banc)

The WCAB en banc, by a 6-1 vote, held that the Wilkinson rule is no longer applicable in light of the repeal of LC § 4750 and the enactment of LC § 4663. The Wilkinson rule allowed for the combining of disabilities from different injuries, so long as they were for the same employer, were P&S at the same time, and involved at least one common body part. The use of the rule allowed for a greater economic benefit to the employee in light of the graduated permanent disability tables. The WCAB, citing Brodie, held that the goal of the reform legislation was to force apportionment to individual causes of permanent disability, and that such would be contrary to combining disabilities. The WCAB held that only in a situation where it was impossible to separate the extent of causation between industrial causes, would the Wilkinson doctrine still be applicable. The language of this decision however indicates that such cases would be rare.