



New Case Brief
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The People, ex rel. Monterey Mushrooms, Inc. v. Steven P. Thompson et al
(2006) H026396 (Monterey) [Court of Appeal 6th District – Unpublished
Decision]

In an unpublished opinion, the Sixth District of the Court of Appeal held that Labor Code section 5300 did not bar a civil action against a medical provider for violations of Insurance Code section 1871.7 for submitting **fraudulent claims** for compensation. Defendants sought a decision requiring the matter to be decided before the Workers Compensation Appeals Board under the exclusive remedy provisions of the Labor Code.

An action was initiated against defendants for restitution, civil penalties and an injunction under Insurance Code section 1871.7 and Business and Professions Code section 17200 et seq. The People alleged that defendants had participated in a scheme in which they submitted false claims for workers' compensation payments from Monterey Mushrooms, Inc. a self-insured employer. It was alleged that Steven Thompson, who had been convicted in 1997 of seven counts of filing false workers' compensation claims, had organized two corporations, Peninsula Medical Group and Integrated Family Medical Group using two medical doctors to serve as medical directors of each. Neither doctor had any control of these corporations in violation of the laws governing the structure of medical corporations. The trial court found that Thompson and his wife prepared 703 fraudulent claims for workers' compensation payments for unnecessary and excessive chiropractic treatment, frequently submitting "at least two and often three separate claim forms for a single patient visit through these corporations and ordered that they were liable for \$479,115.29 in civil penalties and \$1,230,040.00 in attorneys fees.

On appeal defendants argued that the exclusive remedy provisions of the Labor Code section 5300 barred The People from bringing a civil action against them. They argued that this case amounted to no more

than a billing overcharge dispute that had to be litigated in the workers' compensation system. The court disagreed. The court reasoned that Insurance Code section 1871.7(b) was intended to encompass fraudulent claims for workers' compensation benefits since it specifically provides for civil penalties for fraudulent claims for compensation under Labor Code section 3207, which is part

of the workers' compensation act. Moreover, the language of Insurance Code section 1871(d) showed that the legislature sought to try to prevent workers' compensation fraud by enacting that section and Insurance Code section 1871.7(k) made it clear the remedies it provided were in addition to any other remedies provided by existing law. Finally, Penal Code section 550 on which the Insurance Code section 1871.7 allegations were predicated prohibited submission of fraudulent claims for payment of health care benefits which is defined under the statute as a claim made by a provider for workers' compensation health benefits. Thus, the civil action was not barred the exclusivity rule.

Comment: One would think that Mr. Thompson would have learned from his previous fraud conviction. If the court had accepted his argument on appeal, the criminal justice system would have lost most of its tools to address workers compensation fraud in the area of claims for fraudulent medical care. In a side note, it is interesting that he really was not punished to the full extent of the law. The penalty for his conduct was \$5,000-\$10,000 for each fraudulent claim. Since there were 703 of them, that could have resulted in a penalty of at least \$3,515,000 and perhaps as high as \$7,030,000.