

California District Court of Appeal rules that Safety Officers Get Only 1 Year of TD in Addition to Their Year of LC §4850

Reverses prior decisions that allowed 2 years TD in addition to 1 year of 4850 full salary

On 1/30/2013 the Court of Appeals published a decision in the case of *County of Alameda v. Workers' Compensation Appeals Board (Knittel)* holding that Labor Code §4850 benefits are subject to the 104-week cap set forth in Labor Code §4656(c)(2).

This is now the only published case addressing the issue, and is therefore citable and binding authority on all workers' compensation judges and the WCAB. This is a significant victory for California public entities, won by Hanna & Brophy attorney, Christian Kerry.

Labor Code §4656(c)(2) applies to all dates of injury on or after 1/1/08, and limits "aggregate disability payments" to 104 weeks within a period of 5 years from the date of injury. In this case, a deputy sheriff sustained injury to his left knee on 9/13/09, and received a year of full salary benefits pursuant to LC 4850, followed by a year of temporary disability. Relying on the prior cases decided by the WCAB, applicant's attorney argued his client was entitled up to another full year of temporary disability. The WCJ agreed, as did the WCAB on reconsideration.

In a major victory for California public employees, the Court of Appeals reversed, finding that Labor Code §4850 benefits are included in the term "aggregate disability benefits", which

Labor Code §4656(c)(2) caps at 104 weeks.

Up to this point, the WCAB had allowed public safety officers to collect 104 weeks of TD benefits in addition to their full year of salary continuation benefits, for a total of 3 years of benefits. Conservative estimates are that public entities statewide were spending about \$25 million annually for officers who were collecting a third year of benefits.



Hanna & Brophy attorney, and partner, Christian Kerry

We offer our thanks and congratulations to Hanna &

Brophy attorney, and partner, Christian Kerry for his hard work and persistence on this claim, and the victory on behalf of public employers statewide.

**HANNA
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