



**FOR IMMEDIATE RELEASE:
Tuesday, December 12, 2006**

Contact: Steve Hopcraft 916/457-5546;
steve@hopcraft.com

**INJURED WORKERS' ADVOCATES WILL CONTINUE
EFFORTS TO CHANGE GOVERNOR'S PERMANENT
DISABILITY COMPENSATION CUTS:**

Permanent Disability Compensation Cuts Not Legal or Appropriate

SACRAMENTO – Advocates for injured workers today said they would continue to press their fight challenging the Schwarzenegger Administration's deep cuts in injured workers' permanent disability compensation. The advocates for Californians injured on the job responded to a Workers Compensation Appeals Board (WCAB) decision last week. The board's decision in injured worker Joey Costa's case broke no new legal ground, leaving the schedule in place, but not ruling that the schedule is legal and appropriate. "The opinion in the *Costa* case has not ended this dispute. Other injured workers' cases raising the issue of the validity of the Permanent Disability schedule are set for trial throughout the state, and the evidence in those cases will meet the standards set out in the *Costa* decision," said California Applicants' Attorneys Association (CAAA) President Linda Atcherley. "We will continue our fight to overturn the governor's drastic reductions in the already-meager compensation permanently injured workers receive."

Four studies, including one by the insurance industry's own ratings bureau, have found the Schwarzenegger Administration's ratings reduce compensation to permanently disabled workers by more than half. A UC Davis professor conducted one; another was by the State's own Commission on Health, Safety and Welfare Compensation (CHSWC); yet another was by an insurance defense expert; and the fourth was from the insurance carriers' own ratings bureau. The studies have consistently shown the Schwarzenegger Administration's schedule will reduce permanent disability compensation by an average of 50% to 70%.

"The Schwarzenegger Administration's Permanent Disability Ratings Schedule is inconsistent with SB 899, and is not based on empirical data, as the statute requires. Its continued use relegates thousands of workers to subsist on constitutionally inadequate benefits," Atcherley said. "The Schwarzenegger Administration failed to link the new permanent disability ratings to wage loss by using empirical data and findings. Instead, the Administration substituted policy judgments for empirical data and assumptions for empirical studies. Nowhere does the law give the Administration authority to make a 'policy decision' that severely reduces permanent disability benefits to injured workers."

Division of Workers Compensation Administrative Director Andrea Hoch testified before the State Senate Committee on Industrial Relations in December 2004 that she did not know how the

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new PDRS would change overall benefit levels. "The decision seems to excuse in part Andrea Hoch's rejection of additional empirical studies because of a statutory deadline of January 1, 2005. Hoch used this deadline to justify a failure to base the new schedule on empirical data," said Atcherley. "The WCAB decision ignores that in the past (1997, for example) there was delay of more than two years past the legislative deadline in adopting a new schedule. Moreover, Ms. Hoch ignored similar statutory deadlines for setting treatment guidelines (December 1, 2004). More than two years later, this deadline has not been met. The Administration has been selective in hewing to deadlines, meeting them only when it harms injured workers, and ignoring them when it would benefit those injured at work."

"We disagree with the WCAB's interpretation of the testimony of Andrea Hoch and Robert Reville, and other pending cases will clarify the meaning of that testimony for the WCAB."

For additional background and cases of injured workers harmed by the Administration's permanent disability compensation reductions, please visit: www.denialofcare.org

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