

INTER-OFFICE MEMORANDUM

TO: ALL ATTORNEYS AND CLIENTS
FROM: W. JOSEPH TRUCE, ESQUIRE
DATE: June 30, 2005
RE: DO THE PROVISIONS OF LABOR CODE §4061 AND 4062
REQUIRE US TO ALWAYS USE THE SAME QME.

In the case of Shaffer v. Liberty Mutual Insurance Company, 33 CWCR 108, the Board's answer was: "Sometimes."

In Shaffer, the Board noted as follows:

"Labor Code §4062.3(j) requires the parties to use the same QME only "to the extent possible," and the defendant had good reasons for selecting another QME . . ."

In this case, the Board granted reconsideration and overturned the decision of the Workers' Compensation Judge who had excluded from evidence defendant's QME, Dr. Richard Goldberg, M.D.

The original QME utilized by defendants had been a Dr. Weddington and defendants argued that they utilized the expertise of Dr. Goldberg for the following reasons:

1. Dr. Weddington was a relatively new QME who was used because he was the only one with whom an appointment could be got within the 90 day period to accept or deny the claim;
2. Dr. Goldberg specialized in upper extremities and was better able to evaluate a carpal tunnel case.

This case stands for the proposition that in certain cases we can use another QME if we establish good cause

WJT/tmm/ib
