

INTER-OFFICE MEMORANDUM

TO: Attorneys & Clients
FROM: Joe Truce
DATE: July 2, 2006
RE: Oops – I paid the award of attorney’s fees late – who get’s the penalty check?

From the lobby bar at the Hyatt:

As George the Bartender was pouring my first Martini he remarked that he had just talked to his attorney regarding the F&A on his carpal tunnel case. George told me that his permanent disability check was on time but that his attorney was paid late and has submitted a claim to the insurance carrier for a L.C. 5814 penalty. George told me that he had read L.C. 5814 and the plain meaning of the statute was that a L.C. 5814 penalty was payable to the injured worker and not the attorney, although his attorney told him otherwise. I told George that this issue had already been addressed by the WCAB in Winters v WCAB, 65 CCC 1354. In this case, the applicant’s attorney persuaded the judge to pay Mr. Winters both the interest and penalty assessment for the untimely payment of attorney’s fees. On Reconsideration the WCAB reversed the WCJ and held that the penalty is to be paid to the applicant and the interest is to be paid to the applicant’s attorney. I told George to relax as he would be getting an additional check for the penalty assessment. Instead George looked at me in consternation and asked: “Do you know who my attorney is?”

Let’s both have a double George.....

Joe Truce