

INTER-OFFICE MEMORANDUM

TO: ALL ATTORNEYS/ALL OFFICES/CLIENTS

FROM: Joe Truce

DATE: May 8, 2002

RE: REIMBURSEMENT OF FUNDS INADVERTENTLY PAID BY
DEFENDANT TO APPLICANT

As a general rule the Board and/or Courts will not order reimbursement of funds inadvertently overpaid by an insurance carrier and/or employer- assuming that the applicant is not guilty of any wrong doing or bad faith.

However in the case of **Brenda Christian v. WCAB, Michaels Stores, Inc.** the Board ordered reimbursement as the defendant immediately conveyed to applicant's attorney a request for reimbursement and both the applicant and the applicant's attorney failed to return the funds.

In denying the applicant's Petition for Reconsideration the Board adopted the opinion of the WCJ as follows:

"In his Report and Recommendation, WCJ, Thiessen pointed out that although the applicant's attorney assured defendant that its money would be returned depending on the outcome at trial, not even the attorney's fee had even been returned . . . Ms. Christian knew within a few days of payment of the Award that the Award was not final because the defendant was going to appeal . . . "

WJT:wf
Enclosure- Appeals Board Reporter, 4/5/02- Brenda Christian case