

COA Opinion: Workers' Compensation Appellate Commission decision where one of the two-member majority only concurred in the result of the appeal did not constitute a true majority for the purposes of judicial review

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On August 24, 2010, the Court of Appeals published its per curiam opinion in *Findley v. DaimlerChrysler Corp.*, No. 291402. The case arose from an appeal from the Workers' Compensation Appellate Commission ("WCAC") which had affirmed a magistrate's denial of benefits. In affirming that decision, one commissioner issued an opinion that analyzed and adopted the magistrate's findings. Another member concurred "in result only" and provided no explanation, while the last member of the three-commissioner panel dissented. The Court of Appeals held that it can only review the decisions of a "true majority" of a WCAC panel, and that this did not constitute a true majority. The Court concluded that a "true majority" is an opinion in which a majority of the commissioners agree on the material facts and ultimate outcome. Here, it is not clear that a majority of the commissioners agree on the facts because the second member of the majority only concurred in the result. Therefore, the Court of Appeals remanded the matter to the WCAC for further proceedings.