

**[J-75-2006]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

J.G. FURNITURE : No. 149 MAP 2005  
DIVISION/BURLINGTON AND LIBERTY :  
MUTUAL INSURANCE COMPANY : Appeal from the Order of Commonwealth  
 : Court entered November 8, 2004  
v. : (Reargument denied January 5, 2005) at  
 : No. 2320 CD 2003 which affirmed in part  
WORKERS' COMPENSATION APPEAL : and reversed in part the Order of WCAB  
BOARD (KNELLER) : entered September 25, 2003 at No. A02-  
 : 2045.  
APPEAL OF: J.G. FURNITURE :  
DIVISION/BURLINGTON AND KEMPER : 862 A.2d 689 (Pa. Cmwlth. 2004)  
INSURANCE COMPANY :  
ARGUED: May 10, 2006

J.G. FURNITURE : No. 150 MAP 2005  
DIVISION/BURLINGTON AND LIBERTY :  
MUTUAL INSURANCE COMPANY : Appeal from the Order of Commonwealth  
 : Court entered November 8, 2004  
v. : (Reargument denied January 5, 2005) at  
 : No. 2321 CD 2003 which affirmed in part  
WORKERS' COMPENSATION APPEAL : and reversed in part the Order of WCAB  
BOARD (KNELLER) : entered September 25, 2003 at No. A98-  
 : 4411.  
APPEAL OF: J.G. FURNITURE :  
DIVISION/BURLINGTON AND KEMPER : 862 A.2d 689 (Pa. Cmwlth. 2004)  
INSURANCE COMPANY :  
ARGUED: May 10, 2006

**DISSENTING OPINION**

**MR. JUSTICE SAYLOR**

**DECIDED: December 27, 2007**

I respectfully disagree with the majority's classification of the amputation of Claimant's index finger as an "injury." Particularly in light of the workers' compensation

judge's undisturbed factual finding that the problems with and ultimate amputation of Claimant's index finger were the result of the original work injury, I believe that the amputation is better viewed as reasonable medical treatment that was causally related to the Claimant's 1976 injury.<sup>1</sup> From this perspective, I would merely conclude that, upon such treatment, Claimant's existing injury resolved into a specific loss.

Finally, I agree with Judge Leadbetter's observation that the remedial aims of the Workers' Compensation Act might better be served by utilizing a claimant's current wages upon resolution of an injury into a specific loss to calculate specific loss benefits. See J.G Furniture v. Workers' Compensation Appeal Board (Kneller), 862 A.2d 689, 696 (Pa. Cmwlth. 2004) (Leadbetter, J., dissenting). I believe, however, that the application of traditional principles pertaining to the existing statutory scheme yields the opposite result. As such, and given that the Act represents a compromise between the remedial goal and the furtherance of legitimate business interests, I conclude that any adjustment to the present scheme is better left to the Legislature.

Mr. Justice Castille joins this dissenting opinion.

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<sup>1</sup> In distinguishing the amputation from the original injury, the majority places considerable reliance upon the absence of any claim for a compensable injury from 1978 to 1983 and Employer's initial position that the execution of a final receipt effected an end to compensation payable for the injury. See Majority Slip Op. at 7-8. Such reliance, however, fails to account for Claimant's statement in the petition to set aside the final receipt that he had experienced continuing problems with his hand, which prompted a visit for treatment in 1980; Claimant's testimony and contentions in connection with his efforts to set aside the final receipt, see Opinion of WCJ Perry, August 25, 1995; and the workers' compensation judge's undisturbed factual finding concerning causation referenced above.