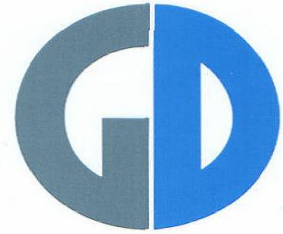


*Gun & Davey*

***Covered***



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Vol 1, Issue 23 – March 2001

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## **COVERED CASES**

### **Case Snippet**

*MARINELLO V WORKCOVER CORPORATION  
(ETM CONSTRUCTIONS PTY LTD)*

*[2000] SAWCT 83*

The question of what constitutes disfigurement has been taken one step further following this decision. In this matter, the Corporation had assessed the worker's disfigurement at 4% based upon his surgical scarring. The worker disputed this assessment seeking an increase on the basis that his permanent slouch and limp (each noticeable most but not all of the time) were also disfiguring.

His Honour Acting Deputy President Thompson rejected the Corporation's submissions that there is a distinction between a "fixed" condition, eg an immovable arm, and a "fluid" condition, eg one apparent only on movement such as a limp. His Honour considered the ordinary meaning of the word "disfigurement" asking would an ordinary person in the street consider a person with a slouch or a limp as disfigured? His Honour then answered yes. He increased the assessment of 4% to 7½% to take into account the slouch and limp.

This decision was appealed to the Full Bench by the Corporation however the appeal was dismissed.