WCLA MCLE 10-31-19

- Walker Brothers: Pancakes & Parking Lots
- October 31, 2019
- 12:00 noon to 1 pm
- James R. Thompson Center Auditorium, Chicago, IL
- 1 hour general MCLE credit

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- Parked in the Ace Hardware parking lot near the employer's restaurant, slipped and fell on Ace's snowy and icy parking lot surface
- "That's where they give us permission to park"
- Salanas stated that the employees were not allowed to park in the employer's parking lot because it was too small
- Respondent's HR guy testified that the employer had no designated employee parking lot: "informal agreement with Ace,"
- John Weiss, the owner of the Ace store and parking lot located near the employer's restaurant, also testified by deposition: 13 spaces in his parking lot that the employer's employees could use, but noted that the general public is also allowed to use those spots

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- The Petitioner is not believable or credible
- The Respondent had no control and did not exercise any control over the Ace parking lot
- Respondent did not require Petitioner to park in the Ace parking lot
- Petitioner’s request for beneftis is denied and the claim is dismissed

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- Exception to the above “general premises rule," however, recovery is permitted where the employee has sustained injuries in a parking lot provided by an employer. Mores-Harvey.
- Supreme court has held the question of ownership to be immaterial so long as the employer provides the lot. DeHoyos.
- Undisputed that Respondent entered into an agreement with Ace Hardware to provide the lot for its employees' use.
- For that reason, the Commission finds that Petitioner’s fall on ice in the Ace Hardware parking lot, on his way to work for Respondent, arose out of and in the course of his employment with Respondent.
- IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's decision dated 1/4/16 is reversed.

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- However, where as here, the facts are undisputed and susceptible to only a single inference, the question is one of law and subject to de novo review. We note that both parties agree that our standard of review is de novo.
- Generally, when an employee slips and falls at a point off the employer's premises while traveling to or from work, the resulting injuries do not arise out of and in the course of the employment and are not compensable under the Act: known as the "general premises rule."
- However, our supreme court has carved out an exception to this rule when an employer "provides" a parking lot to its employees. De Hoyos.
- Whether or not the employer owned the parking lot is immaterial; for if the employer provides a parking lot which is customarily used by its employees, the employer is responsible for the maintenance and control of that parking lot.

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- Just four years after DeHoyos, our supreme court stated, "[t]he decisive issue in parking lot cases ***usually*** is whether or not the lot is owned by the employer, ***or*** controlled by the employer, ***or*** is a route required by the employer." Maxim's of Illinois.
- In determining whether the parking lot exception applies, ***it is clear*** that ***we must determine*** whether the employer "provided" the parking lot in question to its employees. We make this determination by considering: (1) whether the parking lot was owned by the employer, (2) whether the employer exercised control or dominion over the parking lot, ***and*** (3) whether the parking lot was a route required by the employer.
- Undisputed that the employer ***did not own*** the Ace parking lot
- There is no evidence of record that the employer ***controlled*** the Ace parking lot in any way.
- Evidence demonstrated that the Ace parking lot was not part of a route required by the employer. Although the claimant testified that he was required to park in the Ace parking lot, there was no evidence to support this contention.
- Erroneous as a matter of law, and we reverse the judgment of the circuit court confirming the Commission's decision.