

**THE MONTH IN PENNSYLVANIA WORKERS' COMPENSATION:
JULY 2019 AT A GLANCE
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COURSE AND SCOPE

- The employer rebutted that the claimant, who was a traveling employee, was in the course and scope of employer where, upon leaving his last appointment of the day, passed the exit to his home to attend a happy hour at a bar with co-workers and was then involved in a motor vehicle accident on his way home from the happy hour. This is because by passing his home exit to attend the happy hour claimants “homeward trip” had ended before Claimant traveled to attend the happy hour at a bar.

The court distinguished this case from cases where a traveling employee was found to be in the course and scope of employment where they were injured on their way home. In those cases benefits were granted because the homeward trip was a necessary part of the business excursion. Moreover, the rule recognizes that a traveling employee is subjected to hazards the employee would otherwise have the option of avoiding, and as a result, the hazards of travel become the hazards of the employment.

In this matter, Claimant clearly had the option of avoiding any hazards simply by choosing to take the exit home as opposed to bypassing his exit to attend happy hour. Under the circumstances, Claimant’s travel from the bar to his home cannot be considered in the course and scope of his employment

- It is true that temporary departures from the work routine for the purpose of administering to the comforts of an off-the-premises employee will not interrupt the continuity of the employee’s course of employment. In this matter the claimant’s attendance at the happy hour was not deemed to be a temporary departure, in part, because he passed his exit home at the end of the day to attend the happy hour.
- Although the happy hour was a work-sponsored event, claimant was not in the course and scope of his employment when he traveled from the event back to home. This is because the However, the WCJ, as fact finder, determined that the meeting at the bar for the happy hour was not furthering the interests of Employer, but rather was a social gathering.

The WCJ specifically rejected as not credible claimant's testimony the attendance at the happy hour was mandatory.

- The Court has analyzed course of employment cases in two ways, depending on whether the claimant is a traveling or stationary employee.

What constitutes 'scope and course of employment' is broader for traveling employees than for stationary employees, and it includes driving to any appointment for the employer. Whether a claimant is a traveling employee is determined on a case by case basis, and the Court must consider whether the claimant's job duties involve travel, whether the claimant works on the employer's premises or whether the claimant has no fixed place of work.

When an employee is determined to be a traveling employee, he is entitled to a presumption that he is in the course and scope of employment when he is traveling to or from work.

The presumption of being in the course and scope of employment for a traveling employee includes travel home because traveling employees do not have "the option of avoiding" the hazards of traveling homeward.

To rebut this presumption, an employer has to establish the claimant's actions at the time of the accident were so foreign to and removed from his usual employment that those actions constituted abandonment of employment.

Peters v. WCAB (Cintas Corporation), No. 1835 C.D. 2017 (Decision by Judge Covey, July 18, 2019) 7/19