

COMPENSATION NEWS

MONTHLY REPORT

Police officer involved in Going and Coming Rule

This is a writ denied case.

This newsletter normally does not cover writ denied cases. This is an exception. The appellate court actually wrote a thorough review of case law in this area which makes the opinion worthy of comment.

The applicant was a police officer. The City had a "Personal Car Program". An officer is allowed to use a city furnished vehicle off-duty for any normal domestic off-duty use.

The applicant was involved in an accident on his way to work.

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The applicant had his children in the car and was not on a direct commute to work. The applicant had prior approval from a supervisor to drive his children to work.

At trial a Workers' Compensation Judge (WCJ) found the injury industrial. The City filed a Petition For Reconsideration and the Workers' Compensation Appeals Board (WCAB) agreed with the WCJ that the injury was industrial. A writ was filed.

The appellate court indicated that the "going and coming" rule generally precludes an applicant's recovery for a local commute.

An exception is when the applicant's trip involves an incidental benefit to the employer. The conduct may be reasonably related to the fulfillment of the employer's requirements.

The court also looked at a case where an officer died riding his own personal motorcycle home from work and found it compensable. He was wearing his uniform.

The court analogized and indicated that in this instance the applicant was driving a marked police vehicle through the community and listening to the police radio. This benefitted the city and therefore, was a compensable injury.

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