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Dear Reader:

As you may know, the Illinois Supreme Court issued its decision on December 19, 2013 in the matter of *The Venture – Newberg – Perini, Stone & Webster v. The IWCC (Ronald Daugherty)* reversing the decision of the Appellate Court and finding 1) that the Petitioner did not qualify as a traveling employee and 2) that the demands and exigencies of the Petitioner's job did not determine his method of travel.

The Petitioner, Ronald Daugherty, a pipefitter from Local 137 located in Springfield, IL accepted a position with the employer, The Venture, in Cordova, Illinois to perform services at the Cordova Plant. The plant was located approximately 200 miles from the Petitioner's home. The Petitioner and a co-employee chose to temporarily relocate to a local motel. The Employer did not require the relocation nor did it make travel arrangements or provide reimbursement for travel expenses. Additionally, the Petitioner was not required to accept the job at the Cordova plant and in fact could not accept the job if a job were available in his local territory. Lastly, the Petitioner was a short-term employee and was laid off at the conclusion of each project previously worked.

The Petitioner and co-employee traveled to Cordova, Illinois and reported to work at the plant on March 23, 2006. Following the completion of the work day, the men traveled to Lynwood Lounge approximately 80 miles away to spend the night. The next morning on their return to the plant, a car accident ensued where the Petitioner sustained significant injuries.

The Petitioner filed for benefits pursuant to the Illinois Workers' Compensation Act. The Arbitrator denied his claim finding that the Petitioner failed to prove his injuries arose out of and in the course of his employment. The Commission reversed in a divided opinion finding that the Petitioner was 1) a traveling employee and further 2) the demands and exigencies of his job determined his method of travel. The Circuit Court reversed the Commission finding it had misapplied the law and reinstated the Arbitrator's decision. The Appellate Court in a 3 to 2 decision reversed reinstating the Commission's decision finding that the Petitioner was, in fact, a traveling employee.

The Supreme Court, in arriving at its decision that the Petitioner did not qualify under the traveling employee exception, examined the underpinnings of the law. To that end, the long standing general rule is that injuries sustained traveling to or away from work are not compensable. The purpose behind this rule is that employers have no interest in the employee's decision as to where he wishes to live. An exception to this general principle is the traveling employee. The Court examined two cases, specifically *Wright v. Industrial Comm'n 62 Ill. 2d 65 (1975)* and *Chicago Bridge & Iron v. Industrial Comm'n, 248 Ill. App. 3d 687 (1993)* in arriving at its decision that the Petitioner was not a traveling employee. The court examined *Wright,* a case where a permanent employee was regularly directed by his Employer to travel out of state, and the Employer provided *per diem* reimbursement and mileage expenses. The employee in *Chicago Bridge & Iron* was not per se a permanent employee as in *Wright,* but worked for his Employer for over 19 years. Further his mileage expenses were

reimbursed and he was required and directed by his Employer to travel to a remote location. In distinguishing both cases from the present matter, the Court focused on the Petitioner's employment, specifically whether the Employer required or directed the Petitioner to travel. The court noted that the Petitioner was a short-term employee who made a personal decision to travel in order to accept a job and that nothing in the Petitioner's employment contract required him to travel.

Unlike the Appellate Court, the Supreme Court did not focus on the "employer's premises." In arriving at its decision, the Appellate Court noted that the Employer's premises was in Wilmington, IL and not Cordova, IL narrowly construing the meaning of *premises*, i.e. premises being his Employer's business address. The Supreme Court in its decision, broadens the interpretation of premises and focuses on the location where the Petitioner was to perform his work duties, thereby finding the Cordova Plant to be the Employer's premises. The Supreme Court duly noted that the Appellate Court's decision "raised serious policy concerns" as to how to define a traveling employee in the context of premises if a temporary worker who relocates would obtain benefits while traveling to work, but a permanently residing employee would not.

The Supreme Court also examined the Commission's reliance on *Sjostrom v. Sproule*, 33 Ill.2d 40 (1965) regarding the "demands and exigencies" of the job. Again, the Court focused on the Employer's requirements on the Petitioner i.e. did the Employer require or demand that the Petitioner travel. The Supreme Court reasoned that the Employer made no such demand, nor did it require the Petitioner to relocate to or travel to work. Further, the Employer neither reimbursed the Petitioner for travel expenses nor for his time spent traveling.

We feel that the Supreme Court made the correct decision, and its decision reaffirms the long standing principle that injuries which occur while an employee is traveling to or away from work are not compensable. Additionally, the Court's decision makes clear that for the traveling employee exception to apply, travel must be an inherent part of the employment or the employer directs the employee to travel. Further, the Court's interpretation of the meaning of the "employer's premises" certainly narrows the applicability of the traveling employee exception, thereby eliminating the fear that all construction workers could potentially be seen as traveling employees. This decision, though, does not eliminate the traveling employee exception. Employers whose business requires employees to travel or employers who direct travel will still face exposure under the traveling employee exception.