WCAT **Workers' Compensation Appeal Tribunal**

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WCAT Decision Number: **WCAT-2014-02671**
WCAT Decision Date: **September 11, 2014**

Panel: Herb Morton, Vice Chair

WCAT Reference Number: 140698-A

Section 257 Determination
In the Supreme Court of British Columbia
New Westminster Registry No. M143785
Andrea Stock v. Vern Douglas and Michael Egli

Applicants: Vern Douglas and Michael Egli
(the "defendants")

Respondent: Andrea Stock
(the "plaintiff")

Interested Person: Bayshore Home Support Ltd.

Representatives:

For Applicants: Sim Harry
HARRIS & BRUN

For Respondent: Shelley Henshaw
WATERSTONE LAW GROUP LLP

For Interested Person: Alan D. Winter
HARRIS & COMPANY LLP

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Introduction

[1] The plaintiff, Andrea Stock, was injured in a motor vehicle accident at approximately 7:45 a.m. on November 18, 2011. She was employed by Bayshore Home Support Ltd. (Bayshore) as a personal care worker. She had six appointments scheduled with five different clients, in their residences, on the day of the accident. The accident occurred prior to her first appointment of the day, which was scheduled at 8:00 a.m. The accident occurred at the intersection of 40th Avenue and 176th Street in Surrey, B.C.

[2] The defendant, Michael Egli, was an electrician employed by 'It's On' Electric Company Incorporated (It's On). He was driving a van bearing the "It's On" company markings. Prior to the accident, he drove to the offices of It's On, picked up the van, received instructions to go to a work site, and left the office with a co-worker/apprentice electrician, Matt Pereira. The defendant, Vern Douglas, is a shareholder and director of It's On. Douglas was the registered owner of the van.

[3] Pursuant to section 257 of the *Workers Compensation Act* (Act), the Workers' Compensation Appeal Tribunal (WCAT) may be asked by a party or the court to make determinations and certify to the court concerning actions based on a disability caused by occupational disease, a personal injury, or death. This application was initiated by counsel for the defendants on March 21, 2014. A transcript has been provided of the examination for discovery of the plaintiff on November 28, 2013. An uncertified rough draft transcript has been provided of the examination for discovery of the defendant Michael Egli on November 28, 2013. A transcript has also been provided of the examination for discovery of Aaron Ting, human resources coordinator for Bayshore, on March 20, 2014. The legal action is scheduled for trial commencing on November 17, 2014. Bayshore is participating in this application as an interested person.

[4] Written submissions have been provided by the parties to the legal action, and by Bayshore as an interested person. The background facts are not in dispute, and this application does not involve any significant issue of credibility. I find that this application can be properly considered on the basis of the written evidence and submissions, without an oral hearing.

Issue(s)

[5] Determinations are requested concerning the status of the parties to the legal action, at the time of the November 18, 2011 motor vehicle accident.

Jurisdiction

[6] Part 4 of the Act applies to proceedings under section 257, except that no time frame applies to the making of the WCAT decision (section 257(3)). WCAT is not bound by legal precedent (section 250(1)). WCAT must make its decision based on the merits and justice of the case, but in so doing must apply a published policy of the board of directors of the Workers' Compensation Board, operating as WorkSafeBC (Board), that is applicable (section 250(2)). Section 254(c) provides that WCAT has exclusive jurisdiction to inquire into, hear, and determine all those matters and questions of fact, law, and discretion arising or required to be determined under Part 4 of the Act, including all matters that WCAT is requested to determine under section 257. The WCAT decision is final and conclusive and is not open to question or review in any court (section 255(1)). The court determines the effect of the certificate on the legal action: *Clapp v. Macro Industries Inc.*, 2007 BCSC 840.

Status of the plaintiff, Andrea Stock

[7] The plaintiff provided a statement by telephone to the Insurance Corporation of British Columbia on November 18, 2011. An unsigned typewritten version of that statement has been provided. This stated:

> Today at 7:45 am I was involved in a two car accidentat 40th Avenue and 176th Street in Surrey, BC. I was alone and on my way to work… At the time of the accident I was traveling southbound in lane 1 of 2 on 176th…. I work part time but get almost full time hours at Bay Shore, as a care aide, 32 hours/week, paid $20/hour and I have noextended benefit plan. I am off work as a result of this accident.
>
> [all quotations are reproduced as written, except as noted, block capitalization removed]

[8] The plaintiff submitted a signed application for workers' compensation benefits on February 8, 2012. She advised that she was employed by Bayshore as a community health worker. The accident occurred at 7:45 a.m. on November 18, 2011, as she was driving down 176th Street approaching 40th Avenue. She was not at work at the time of the accident. Her address was 5088 215A Street in Langley.

[9] The plaintiff spoke with Board officers concerning her claim on two occasions. In a telephone memorandum dated November 29, 2011, a Board customer care agent noted:

> Worker stated she has a "pretty serious" MVA [motor vehicle accident] at around 7:40am on Nov 18, when she was on her way to work from home (stopped by a gas station). Worker stated she shift started at 8am.

[10] In a further telephone memorandum dated December 11, 2011, a Board entitlement officer noted:

> The worker stated that as a community home support worker, she is paid mileage for travel between clients but not to her first client or from her last client to home. She stated that her work's office is in Burnaby. She checks her voicemail and then goes straight to her first client in the morning. On Nov 18, she was on her way to her client. She stated that she has the same first client every Friday. She left home and was filling up gas in the morning and then was on her journey to her client's home when the accident occurred at approx 7:45 am. Her shift was to start at 8:00 am. Her accident was about 5 minutes away from her client's home.

[11] The plaintiff's claim for workers' compensation benefits was suspended as she was pursuing a legal action.

[12] The plaintiff gave evidence in an examination for discovery on November 28, 2013. She had moved to Alberta in February, 2013 (Q 7, 9). She stated that at the time of the accident, she resided at 18818-68th Avenue in Surrey, B.C. Her counsel corrected this, noting that the plaintiff's address was actually 68th Avenue in Langley (Q 19). She had worked for Bayshore since 2010 (Q 29). Her job title was home support care aide or home support worker (Q 33). This involved assisting people in their home (Q 34). Her work duties included assisting clients with baths, changing colostomies, bowel routines, cooking, assisting with transfers for clients who were not independently mobile, and administering pills (medication) from bubble packs (Q 39 to 51). She assisted clients with their activities of daily living (Q 52 to 53). She did not take equipment with her to clients' homes, apart from gloves (Q 62 to 63). She always wore scrubs (Q 65). She was paid by the hour (Q 70). She was paid for travel between clients, but not while she was traveling from home to her first client of the day (Q 71 to 73). Payment for travel was based on mileage, with a set rate per kilometre (Q 77 to 80). She used her own vehicle and was not reimbursed for gas (Q 86 to 87).

[13] The plaintiff was generally available to work from 8:00 a.m. until 2:00 p.m., and then from 7:00 p.m. until 9:00 p.m. (Q 90). She might or might not be assigned work during those times (Q 91). She had regular clients that she would see (Q 94). Prior to the accident, she worked approximately 20 to 30 hours every two weeks (Q 119 to 120).

[14] On the day of the accident, the plaintiff's first client was E. The plaintiff advised that she saw E almost every evening from 8:00 p.m. to 9:00 p.m., and on Friday mornings from 8:00 a.m. until 9:30 a.m. (Q 113 to 118).

[15] On the morning of the accident, she left her house at 18818-68th Avenue in Langley at approximately 7:00 a.m. (Q 125 to 126). She was going to see her first client of the day, E (Q 130). E resided near 156th Street and 25th Avenue in Surrey (Q 131 to 133). She did not go directly to E's house. The plaintiff stated (Q 138 to 140):

> A Originally, after leaving my house, I dropped my husband off at work. After that I drove down to Number 10 Highway and on Number 10 Highway I made a left on 176th, which is Highway 15, where the accident occurred.
> Q Okay. And if the accident hadn't occurred what was the rest of your route to [E's] house?
> A I would have turned on 32nd Avenue.
> Q Turned in what direction?
> A I'm sorry, that would be a right on 32nd Avenue. Then I would have made a left on 152 and I would have gone up 152, where there's a Starbucks on the corner of 152 and King George Highway.

[16] The plaintiff stated that she would have gotten a coffee and a granola bar at the Starbucks. She always had the same thing (Q 141). Depending on the time, she would sit and read the headlines in the newspaper and then continue on to see her first client (Q 144). She normally arrived at E's residence at 8:05 a.m., as E was extremely slow (Q 151). The plaintiff described her intended travel route from Starbucks to E's residence as follows (Q 145):

> …It's been a long time. Sorry. I'm not sure of the road that goes behind the Starbucks, but there's a road behind the Starbucks and there's a Safeway and my client is just down the road. And I would have made a left and then my client would have been on the next left. I'm sorry, it's been so long.

[17] The plaintiff's husband worked in a warehouse at Mopac Auto Supplies (Q 146 to 148), located near 200th Street and 84th Avenue (Q 149). The plaintiff always dropped her husband off at work (Q 161, 163). (Google Maps shows that 200th Street and 84th Avenue is located some distance to the north, near Highway 1.)

[18] The plaintiff did not always stop at Starbucks on her way to E's residence. She explained: "Only if I had extra time" (Q 164). If she was not stopping at Starbucks, she would have taken a different route for her travel between her husband's place of work and E's residence (Q 165). She explained (Q 166):

> I would have gone straight down 200th and I would have turned to go to 24th and I would have gone straight down 24th.

[19] (It appears from Google Maps that 24th Avenue does not extend through to 200th Street, and some detour would have been required. A more straightforward alternative route would have been to take 32nd Avenue from 200th Street west towards Highway 15, and to then drive further west on either 32nd Avenue or 24th Avenue from Highway 15.)

[20] The accident occurred on a Friday (Q 168). On the day of the accident, she was scheduled to see E from 8:00 to 9:30 a.m., another client from 9:30 to 10:30 a.m., then a husband and wife from 10:30 a.m. until 12:30 p.m., following which her workday would have been finished unless she had "a one-time only or a fill-in" (Q 169 to 171). The accident occurred as she was traveling southbound on 176th Street, at the intersection with 40th Avenue (Q 292 to 294).

[21] The plaintiff also provided an affidavit sworn on June 3, 2014. While working at Bayshore, she routinely worked a split shift from 8 a.m. to 1 p.m., and then from 7:00 p.m. until 9 p.m. In her first shift, she would generally see four to five clients, and in the evening shift she would see two clients. She received mileage and was paid an hourly rate for her driving time when traveling between client homes, but not at the start of her shift when she was driving from her home to visit her first client of the day (or at the end of her shift when she was driving from the last client to her home). The plaintiff did not receive any benefits in relation to the travel from, and to, her home, and did not consider that she was working while engaged in such travel.

[22] Evidence was also provided by Aaron Ting, on behalf of Bayshore, at an examination for discovery on March 20, 2014. Ting was the human resources co-coordinator for Bayshore (Q 8). Evidence was also provided during this discovery by Anne Marie McCamley, area director for Bayshore (Q 31). Bayshore had an office on Dominion Street in Burnaby (Q 31). The plaintiff would normally not attend that office (Q 33 to 36). The plaintiff was paid approximately $0.50 per kilometer at the time of the accident for mileage (Q 59). She was paid mileage for travel between clients, but not in relation to her travel to see her first client of the day or in relation to her travel home after seeing her last client of the day (Q 56 to 58). The workers were not paid an hourly wage for travel, but were permitted to leave a client's home ten minutes before the scheduled end time so that they could use ten minutes of the paid service time to travel to the next appointment (Q 65). The workers could drop off forms and pick up gloves at local drop locations so it was generally not necessary that they attend the Burnaby office of Bayshore (Q 66 to 67).

[23] The plaintiff acknowledges that she was in an employment relationship with Bayshore. She submits, however, that her injuries in the November 18, 2011 accident did not arise out of and in the course of her employment.

[24] I find that the plaintiff was a worker within the meaning of Part 1 of the Act. A disputed issue is whether her injuries in the November 18, 2011 accident arose out of and in the course of her employment.

[25] The plaintiff's understanding, based on an orientation session provided by Bayshore when she was hired, was that she would not be compensated for travel between her home and her first client of the day. The plaintiff notes that home care workers employed by Bayshore had a choice to work either in care facilities or in the homes of their clients. At the time of the accident, her schedule had become relatively routine, in that she saw the same clients at the same locations, at the same time, for numerous years. The plaintiff presented a number of different scenarios to compare the situations of health care aides, providing services to clients in the clients' home or services to clients in a residential facility, including the situation in which a health care aide stopped at Bayshore's premises on the way to visit the first client. The plaintiff submits that under the different scenarios, differing decisions regarding workers' compensation coverage would be provided not only among like workers, but also among the same workers on different days. The plaintiff submits this is illogical and patently unreasonable. The plaintiff submits that her travel at the time of the accident should be treated as a general commute, with no employment connection.

[26] The plaintiff submits that it is not the intent of the policy at item #C3-19.00 of the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II) to provide workers' compensation coverage for home care workers traveling from and to home and their first and last work locations of the day. She submits that travel to her first client of the day should not be treated the same as her travel between clients. It is her position that travel only becomes an integral or essential aspect of providing home care when traveling between clients.

[27] The plaintiff cites two WCAT decisions which were made under the policies in the new Chapter 3. *WCAT-2012-00482*, *Hiebert v. Sooch et al.*, concerned a health care worker who provided services to a range of clients at two independent living facilities. She was only reimbursed for mileage for travel between clients' homes, and not for travel to and from her home. That decision reasoned, at paragraph 57:

> [56] I appreciate the basis for the argument presented by the defendant ICBC [Insurance Corporation of British Columbia]. The plaintiff was providing services to clients in their places of residence, and not on her employer's premises. She was required to travel to the clients' places of residence, which included their personal homes, as well as the residences known as Magnolia and the Langley Senior Village. The plaintiff could be characterized as a traveling

employee on that basis. In particular, if she was required to travel more frequently in order to assist individual clients in these different locations, that would tend to support her characterization as a traveling employee.

[57] **In this case, however, the evidence is that the plaintiff worked five days a week at Magnolia, from Sunday to Thursday. This was her primary place of employment, and she was only dispatched to other locations as needed. December 8, 2010 was a Wednesday. In this context, I consider that Magnolia amounted to "a normal place of employment."** Her travel comes within the terms of the general policy at item C3-19.00 related to travel, namely, that injuries occurring in the course of travel from the worker's home to the normal place of employment are not compensable. I agree with ICBC's submission that the plaintiff would be considered a traveling employee in relation to the provision of home care services to clients in their homes, with workers' compensation coverage in relation to her travel to visit the clients in their homes. I consider, however, that this coverage would not apply in relation to the plaintiff's initial travel from her home to her "normal place of employment" at Magnolia.

[emphasis added]

[28] The plaintiff also cites *WCAT-2012-02852*, *Soria v. Carson*. That case concerned a community health worker who was provided with a weekly schedule by her employer. She had regular clients with whom she worked. At the time of the accident, she was driving from attending church on Sunday morning to see a client. This was a regular client, who she saw at 9:00 a.m. on Sunday mornings. The plaintiff was not paid for mileage or travel time until after she saw her first client. The WCAT panel reasoned:

[25] I do not accept that the residence of the plaintiff's first client on Sundays had become her "normal place of employment," since there is no compelling evidence that distinguishes that client from the other clients she saw that day. Unlike the situation in *WCAT-2012-00482,* the plaintiff did not attend to that client's residence on a daily basis or consider it to be a work site from which she was dispatched to the homes of other clients. Moreover, the fact that the plaintiff had other "regular clients," besides the client she saw at 9:00 a.m. on Sundays, supports my conclusion in this regard.

[26] **Consistent with the panels' reasoning in *WCAT-2006-02659* and *WCAT-2012-00911*, I accept that travel was an integral or essential aspect of the services that the plaintiff provided as a community health worker.** Her evidence on discovery and what she reportedly told the entitlement officer at the Board on

> January 28, 2011 persuades me that she typically traveled to more than one work location in the course of a normal work day as part of her employment duties, as described in policy item #C3-19.00 of the RSCM II. **I find that the plaintiff was a traveling employee at the time of the accident, which means that she would have had Board coverage while traveling from her home to the first client** on June 2, 2011, while traveling between clients that day, and while traveling home at the end of her work day (subject to (subject to the Board's policy on major deviations for personal reasons).
>
> [emphasis added]

[29] The plaintiff submits that it is illogical that different decisions could be reached concerning the applicability of workers' compensation coverage depending on whether a health care worker provided services in clients' homes or at a care facility, and depending on whether the first trip of the day was to see a client at home or at a care facility. The scope of workers' compensation coverage could differ depending on such factors. The plaintiff submits that there is a clear misalignment between the policy in question and the expectations of home care workers and their employers.

[30] The defendants submit that at the time of the accident, the plaintiff was on a reasonably direct route to E's house. Google Maps shows that both the 176th Street route and the 200th Street route are reasonably direct routes that she could have taken. There is no reasonable explanation as to why the 176th Street route was preferable to the 200th Street route when she was going to Starbucks. In any event, the Starbucks was located only a few blocks from E's house. At the point of the accident, the plaintiff was still on a reasonably direct route to E's house, and had not commenced any deviation related to her intended stop at Starbucks.

[31] Bayshore confirms that at the relevant time, the plaintiff was employed by Bayshore as a residential care aide primarily providing health care services to clients of Bayshore in the client's home. Bayshore cites the policy at item #C3-19.00 concerning "Regular Commute," which provides:

> **A. Regular Commute**
>
> An employment connection generally begins when the worker enters the employer's premises for the commencement of a shift, and terminates on the worker leaving the premises following the end of the shift.
>
> Therefore, a worker's regular commute between home and the normal, regular or fixed place of employment is not generally considered to have an employment connection.

[32] The policy at item #C3-19.00 has four major headings: A. Regular Commute, B. Journeys to a Remote Worksite, C. Traveling Employees, and D. Business Trips. Section C of the policy expressly recognizes that the "regular commute" principle may also be applicable to traveling workers:

> **An employment connection may not exist for the portion of travel between the traveling employee's home and the employer's premises that is undertaken at the commencement or termination of each work day**. These workers may be considered to be on a "regular commute" for that portion of their travel, which is discussed in Section A above.
>
> [emphasis added]

[33] Bayshore cites several decisions (*WCAT-2006-02659*, *WCAT-2012-00482*, and *WCAT-2012-02852*) as involving similar factual situations in which the health care aide was not paid for travel from home in connection with travel to see the first client of the day, or travel back home after seeing the last client of the day. The employer submits that the fact that home care workers are specifically identified in policy as being an example of traveling employees does not make the general policy inapplicable (that workers' compensation coverage does not apply in relation to a worker's regular commute between home and the place of employment). To the contrary, the policy expressly recognizes the general 'regular commute' principle may also apply to traveling workers, in stating that an employment connection may not exist for the portion of travel between the traveling employee's home and the employer's premises that is undertaken at the commencement or termination of each workday. These workers may be considered to be on a "regular commute" for that portion of their travel. The employer submits that it is a generally accepted standard in the home care industry that neither time nor mileage is paid to a residential care aide/home care worker for travel from their home to the home of their first client of the day. Such travel is generally viewed by the industry as being part of the home care workers' regular commute to their work.

[34] Bayshore submits that when applying the "traveling employee" exception (to the "regular commute" general policy) to a home care worker such as the plaintiff, due consideration should be given to a generally accepted industry standard (that neither time nor mileage is paid to a home care worker for travel from their home to the home of the first client of the day). Such travel is generally viewed in the industry as being part of the home care worker's regular commute to work. Bayshore submits that it would be an unreasonable application of the policy for the workers' compensation system to disregard the generally accepted standard in the home care industry, so as to find that an employment connection exists during the home care worker's commute to the home of their first client of the day. Bayshore submits, therefore, that the plaintiff's injuries in the November 18, 2011 accident were not compensable under Part 1 of the Act.

[35] In rebuttal, the defendants cite *WCAT-2014-01595*, *Billing v. Sidana et al*., May 27, 2014. That decision cited the employer's policy which stated that direct care providers were:

> not considered to be in the course of employment when travelling from their personal residence to their first work assignment and from their last work assignment to their personal residence. It is during this time that an employee is not considered to be under the care, direction, or supervision of the employer nor is any monetary payment made to an employee.

[36] The WCAT panel concluded:

> [46] As the plaintiff in the present case has noted, I am not bound to follow previous WCAT decisions. However, I agree with the reasoning in the previous decisions I have cited. I do not agree with the plaintiff that, because she had completed providing her employment services for the last client of the day, the connection to her employment during her drive home was so tenuous that she was no longer in the course of her employment. Like the community health care workers in *WCAT-2006-02659* and *WCAT-2006-04295*, travel was an inherent or integral part of the services provided by the plaintiff to the employer and the employer's clients. Like those workers, the worker generally travelled from her home to the first client of the day without first stopping at the premises of her employer. Like those workers, she was not paid for her travel time between her home and the first client, nor from the last client back to her own home.
>
> [47] I find that the plaintiff was a travelling worker under policy item #18.40, and with the exception of any deviation from her route for personal purposes, she was in the course of employment from the time she left her home at the beginning of a shift to go to the home of her first client of the day, until she arrived at her own home after travelling from the last client of the shift.

[37] In this decision, I will apply the policies in Chapter 3 of the RSCM II which were in effect at the time of the accident on November 18, 2011.[1] The general policy set out in policy at item #C3-14.00 refers to the issue as to whether an injury is one which arises out of and in the course of the employment as involving a "test of employment connection":

> The test for determining if a worker's personal injury or death is compensable, is whether it arises out of and in the course of the

[1] The board of directors of the Board approved a revision to the policies in Chapter 3 of the RSCM II. As those new policies apply to injuries or accidents that occur on or after July 1, 2010, they apply in this case.

> employment. The two components of **this test of employment connection** are discussed below.
> In applying **the test of employment connection**, it is important to note that employment is a broader concept than work and includes more than just productive work activity. An injury or death that occurs outside a worker's productive work activities may still arise out of and in the course of the worker's employment.
>
> [emphasis added]

[38] Item #C3-14.00 set out a list of nine non-medical factors to be considered in making a decision as to whether an injury arose out of and in the course of the employment. The policy stated that none of these factors may be used as an exclusive test, and that other relevant factors not listed in policy may also be considered. Other policies in Chapter 3 may provide further guidance as to whether the injury or death arises out of and in the course of the employment in particular situations. The nine factors listed in policy at item #C3-14.00, are as follows:

1. On Employer's Premises
2. For Employer's Benefit
3. Instructions From the Employer
4. Equipment Supplied by the Employer
5. Receipt of Payment or Other Consideration from the Employer
6. During a Time Period for which the Worker was Being Paid or Receiving Other Consideration
7. Activity of the Employer, a Fellow Employee or the Worker
8. Part of Job
9. Supervision

[39] By themselves, these factors do not point to the plaintiff's injury was being employment-connected. It appears that only one factor may be met, which is #8 concerning whether the plaintiff's activities in traveling to see her first client were part of her job (and that point is in dispute). Arguably, other related factors which might support workers' compensation coverage are #2, For Employer's Benefit, and #3, Instructions From the Employer. However, these other factors cannot be viewed as providing support for workers' compensation coverage in such circumstances. It is necessary for most workers to travel to work, yet workers' compensation coverage generally does not apply to such travel. Accordingly, the factors listed in item #C3-14.00 provide very limited support for a finding of employment-connectedness.

[40] It is also necessary to have regard to more specific policies in Chapter 3. Policy at item #C3-19.00, "Work-Related Travel," provided as follows:

> The general policy related to travel is that injuries or death occurring in the course of travel from the worker's home to the normal place of

employment are not compensable. On the other hand, where a worker is employed to travel, injuries or death occurring in the course of travel may be covered. This is so whether the travel is a normal part of the job or is exceptional. In these cases, the worker is generally considered to be traveling in the course of the employment from the time the worker commences travel on the public roadway.

In assessing work-related travel cases, the general factors listed under Item C3-14.00, Arising Out of and In the Course of the Employment, are considered. Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of the employment.

[41] Policy at item #C3-19.00 provided the following specific guidance:

C. Traveling Employees

"**Traveling employees" are workers who:**

- **typically travel to more than one work location in the course of a normal work day as part of their employment duties**; or
- • have a normal, regular or fixed place of employment, and are directed by the employer to temporarily work at a place other than the normal, regular or fixed place of employment.

An employment connection generally exists throughout the travel undertaken by traveling employees, provided they travel reasonably directly and do not make major deviations for personal reasons. This is so regardless of whether public or private transportation is used.

An employment connection may not exist for the portion of travel between the traveling employee's home and the employer's premises that is undertaken at the commencement or termination of each work day. These workers may be considered to be on a "regular commute" for that portion of their travel, which is discussed in Section A above.

Examples of traveling employees include, but are not limited to, taxi drivers, emergency response personnel, transport-industry drivers, cable installers, **home care workers**, many sales representatives, and persons attending off-site business meetings.

[emphasis added]

[42] Policy at item #C3-19.00 further stated:

An employment connection generally exists for traveling employees during normal meal or other incidental breaks, such as using the washroom

facilities, so long as the worker does not make a distinct departure of a personal nature.

[43] The plaintiff typically traveled to multiple work locations in the course of a normal workday as part of her employment duties, without attending her employer's premises. She fits the definition of a traveling employee set out in policy. Her occupation as a home care worker is expressly listed as one of the examples of traveling employees. Accordingly, the plaintiff had workers' compensation coverage in respect of her travel throughout her work day, provided she traveled reasonably directly and did not make a major deviation for personal reasons.

[44] The parties have cited a number of prior decisions of WCAT and the former Appeal Division. The submissions of the plaintiff and Bayshore are consistent, at least in part, with the reasoning expressed in a 1997 Appeal Division decision (under the former version of Chapter 3). *Appeal Division Decision #97-0191*, Travel to regular starting point, 15 W.C.R. 145, concerned a home care worker who had been attending the same client, at the same location, as the first client of her day, on a daily basis for approximately the preceding seven months. She was involved in an accident while *en route* to this client's house, as her first client of the day. That decision reasoned:

> While the policies are by no means clear concerning their application to such circumstances, on balance I find that the defendant's travel, in attending to the same client on a regular basis at the same time each day for seven months, is properly characterized as routine commuting to a normal place of employment. This travel had become such a regularized feature of the defendant's employment that the client's home may be seen as a "normal place of employment". Additionally, notwithstanding the reservations expressed above concerning the policy at #18.32, the client's house may also be seen as a "regular" starting point. I consider, therefore, that the defendant's circumstances are properly addressed by reference to the general position that accidents occurring in the course of travel from the worker's home to the normal place of employment are not compensable. I find no contradiction in characterizing this part of the defendant's travel as routine commuting, outside the scope of her employment, while her other travel in attending to her other clients would be within the scope of her employment. I do not consider that the change in the defendant's schedule on weekends, or the changes in the duration of her visits to "client A", affect this determination of her status at the time of her travel on Wednesday, June 1, 1994.
>
> Given the very regular pattern of travel which was established in this case, in which the defendant had travelled to see the same client, from Monday to Friday of each week for the previous seven months, I find, on balance, that this amounted to routine commuting to a normal place of

employment. This travel was, therefore, outside the course of her employment.

[45] In the present case, the plaintiff submits she was not a traveling employee at the time of the accident as her shift commenced at the same location, and the same time, every Friday. She submits that she was thus traveling to her "normal, regular, fixed place of employment," and engaged in her regular commute. Alternatively, the plaintiff (and her employer) seeks a broader exclusion of workers' compensation coverage for home care workers, so as to limit such coverage to travel between clients.

[46] *Appeal Division Decision #98-1256*, "Travelling workers," 15 W.C.R. 231, concerned a home care worker who was involved in a motor vehicle accident while driving home from seeing her last client of the morning. She worked a split shift, with a seven-hour gap between the morning and evening clients. The Appeal Division panel noted that the worker had seen the same client as the last client of her morning shift at noon every day for three months, but the panel did not view this as a basis for characterizing that client's home as the worker's "normal place of employment." The Appeal Division panel reasoned:

> The regularity of the last three months must be examined in light of the overriding responsibility and right of the employer to schedule the home support workers clients as they see fit. The schedule of the last three months before the accident does not indicate the client's home had become a "normal place of employment".
>
> **That said, we also question whether persons employed to travel can lose their status as "travelling workers" on the way to the first client just because they have repeatedly visited that client first**. If a courier had a standing order for a pick-up first thing in the morning and always went straight from home to that client's premises, the nature of the job is still that of a travelling worker, and the hazards of the journey are part of the employment. The same could be said of travelling salespersons who might have a regular route. We would be extremely cautious in reclassifying such a worker's journey to the first client as a "normal commute".
>
> [emphasis added]

[47] The Appeal Division panel found that the home care worker's travel from her last client of her shift to her home was most appropriately considered under the policy in the former version of Chapter 3 at item #18.40, "Travelling Employees":

> In our opinion, the very nature of the job of a home care worker is to provide services in various clients' homes, and we consider her a "travelling worker". The home care worker is required to travel to the client's home to do her work, and her work typically involves travelling from client to client. Whether she does so in her own vehicle or one supplied by her employer or by public transit, or whether she is paid mileage or wages from home or between clients does not affect the

essential characterization of her work as a "travelling worker". She is "employed to travel" in the words of #18.00.

[48] The panel concluded that the worker's travel to her home from the residence of her last client that morning was covered under the Act.

[49] *WCAT-2006-02659*, summarized as noteworthy[2] on the WCAT website, concerned a community health care worker providing health care to clients in their homes. She drove her own vehicle and was not paid mileage or travel time in driving to her first client. She was involved in a motor vehicle accident while driving from her home to the home of a client. This was a regular client that the worker had been seeing in the client's home, twice a week, for one year. The WCAT panel reasoned:

> Policy item #18.40 specifically addresses compensation coverage for "Travelling Employees". It states:
>
> > Employees whose job involves travelling on a particular occasion or generally are covered while travelling. Where they do not travel to their employer's premises before beginning the travelling required by their work, they are covered from the moment they leave their residence. However, they will not be covered if they first travel to their employer's premises even though their vehicle has been provided by their employer and/or they need that vehicle to do the travelling required by their work.
>
> This expands on the statement in item #18.00 which states that, "where a worker is employed to travel, accidents occurring in the course of travel are covered." These policies flow from *Decision 190* (2 WCR 299), a decision of the former commissioners which was "retired" on June 17, 2003. Although this decision is no longer policy, it is useful in that it provides the historical context in which the policy was developed and the principle relied on in the development of the policy.
>
> That decision involved a case in which a worker had been fatally injured while travelling some distance to the mine in which he worked. He was paid a small sum which was characterized as a travel allowance. In deciding whether the worker's travel should be covered under the Act, the

[2] As set out in item #19.3 of WCAT's *Manual of Rules of Practice and Procedure*, noteworthy decisions may provide significant commentary or interpretive guidance regarding workers' compensation law or policy, comment on important issues related to WCAT procedure, or serve as general examples of the application of provisions of the Act, policies or adjudicative principles. Noteworthy decisions are not binding on WCAT. Although they may be cited and followed by WCAT panels, they are not necessarily intended to be leading decisions.

commissioners formulated the test as “whether or not the journey itself is a substantial part of the service for which the worker is employed.” The commissioners provided the following excerpt from Larson’s which they stated was illustrative of the rule:

> Suppose that an employee who lives a considerable distance from the mine where he is employed, has as part of his job, the duty of returning to the mine at night and throwing the switch to turn on the pumps so that the mine will be ready for operations in the morning. His actual work consists of a single motion which takes but a fraction of a second, the closing of the switch, but anyone appraising that job as a whole would immediately agree that the essence of the service performed was the making of the journey to the mine and back at the precise time when the pumps had to be turned on. It follows that the entire journey to and from the mine is in the course of employment.

This passage was excerpted from chapter 14.01 of Larson’s and it is followed by the passage:

> Carried to its logical extreme, this principle can be considered the justification for the well-settled rule that traveling employees are generally within the course of their employment from the time they leave home on a business trip until they return, for the self-evident reason that the traveling itself is a large part of the job.

The policy at item #18.41 of the RSCM II, addresses compensation coverage during business trips and also quotes directly from Larson’s. It starts with the following paragraph:

> The basic principle followed by the Board is set out in Larson’s *Workmen’s Compensation Law* as follows:
>
> > "Employees whose work entails travel away from the employer’s premises are held . . . to be within the course of their employment continuously during the trip, except when a distinct departure on a personal errand is shown." (5)
>
> This principle covers the activities of travelling, eating in restaurants, and staying in hotels overnight where these are required by a person’s employment.

In chapter 14.03 of Larson’s, the author states that, “A comparatively recent application of the journey-as-part-of-service principle may be seen in the growing business of providing temporary labour.” The example is

provided of a worker who was sent to a client to provide services and the court found that he was entitled to benefits "because traveling…was an integral part of his employment. The travel was in furtherance of the employer's commitment to provide labor at a specific place and time, and the risk of accident during travel was interrelated with the commitment."

I note that caution must be exercised in using Larson's to assist in understanding the principles underlying a policy in this jurisdiction because the principles flow from American jurisprudence and there may be some fundamental differences in approaches between the different jurisdictions. However, often enough, the policies developed by the Board are founded upon principles outlined in Larson's, as appears to be the case with respect to compensation for travelling workers.

Returning to the situation used to illustrate the original rule regarding travelling workers, the frequency with which a trip occurs does not appear to be a relevant consideration when deciding whether the trip is covered. In that example, the employee returned to the mine every night to throw the switch and his journey to and from the mine was covered under the Act because the making of the journey was "the essence of the service performed." Even though he returned to his usual place of employment to perform this duty, the travel was not considered a commute to work because it was such a significant aspect of the service he was employed to provide.

It appears that, at least at the appellate level, the policy rule described by this example has been extended to cover working situations, such as home care workers, which may not have been contemplated when the policy was developed. **But, if travel is an integral or essential aspect of the service provided, there does appear to be a sound rationale for extending the policy on travelling workers to those workers. From that perspective, the trip from the worker's home to the first client is covered because it is part of the service provided even though the worker may not be paid for that aspect of the service**.

The frequency with which the trip is repeated does not affect the worker's coverage if the basis for coverage is that the trip is an essential aspect of the service provided. It is not a commute to work; it is part of the work. The concept of a client's home becoming a "normal or regular operating base" as described in item #18.32, "Irregular Starting Points", would therefore not be applicable to a travelling worker.

[emphasis added]

[50] The WCAT panel found that the worker's journey from her home to her first client was part of the service she provided as a home support worker. As a result, the injuries she sustained in the accident arose out of and in the course of her employment.

[51] *WCAT-2007-03822, Khare v. Sandhu et al.*, also concerned a community health worker. She was involved in a motor vehicle accident on August 19, 2005 shortly after leaving her home, while she was driving to the home of her first client. She was paid for her time spent in travel from her first client of the day until the last client of the day. She was not paid in relation to her travel from her home to the home of her first client of the day, nor for her travel from the last client of the day to her home. The plaintiff received a travel allowance, equivalent to the cost of a one-zone bus fare, and paid her own automobile expenses. The plaintiff's schedule was provided to her on a weekly basis (so that the location of her first client of the day was subject to change). That decision found:

> I appreciate that the employer's policies only provided payment for travel time after the worker's arrival at the home of her first client, and terminated prior to the commencement of her homeward journey at the end of the day. From the employer's perspective, the worker was not "working" while she was engaged in such travel to and from her own home. However, the Board and WCAT are obliged to make their own determinations under the Act and the applicable policies regarding the scope of workers' compensation coverage. Policy at RSCM II item #18.22 provides that the payment of travel time may in some circumstances be a factor to be considered, but it usually will not be a significant factor. The fact that the plaintiff received payment for travel time during the day (albeit not for her travel to and from her residence), and for the cost of bus pass, is consistent with the conclusion that travel was an essential part of the service provided by the plaintiff.
>
> I agree with, and adopt, the reasoning cited above from the prior Appeal Division and WCAT decisions [*Appeal Division Decision #98-1256, WCAT Decision #2003-00896-AD*, "Status Determination: Worker or Independent Operator," 19 W.C.R. 143, and *WCAT Decision #2006-02659*]. I accept the submission by counsel for the defendants, that the policy concerning travelling workers applies to the plaintiff's circumstances. I find that the plaintiff's travel to provide assistance to clients in their homes was a substantial aspect of her employment. As a result, she was a travelling employee, with workers' compensation coverage in respect of her travel (including the travel between her residence and the first and last clients of the day, notwithstanding the employer's policy of not providing payment for such travel time).

[52] *WCAT-2008-01150*, *Clacio v. Warren et al*., concerned a plaintiff who was employed as a community health worker providing home support to elderly clients. She was paid for time spent in travel between appointments. She was not paid for her time spent in traveling from her home to her first client of the day, or for travel from the last client of

her day to her own home. On the day of the accident, her first client of the day was VJ, who had been her first client of the day, every day, for approximately seven months prior to the accident. That decision reasoned:

> Upon careful consideration, **I find persuasive the reasoning expressed in *WCAT Decision #2006-02659*. That decision provides a clear rationale for its interpretation of policy.** While I appreciate that there appears no meaningful distinction between the plaintiff's circumstances and those addressed in *Appeal Division Decision #97-0191*, I prefer the reasoning contained in *WCAT Decision #2006-02659*. **I find, therefore, that despite the very regular and long-term nature of the plaintiff's travels from her home to see VJ (as her first client of the day for every workday for six months prior to her accident), this did not amount to travel between home and a normal or regular operating base. Rather, the plaintiff was a travelling employee. Travel to her clients' homes was "the essence of the service performed" by the plaintiff. Even though the plaintiff travelled to work with VJ as her first client on a daily basis, I find that this travel did not amount to a commute to work because it was such a significant aspect of the service she was employed to provide.** I consider the reasoning in *WCAT Decision #2006-02659* to be more applicable to the plaintiff's circumstances, than the reasoning in *Appeal Division Decisions #94-1511* and *#95-0993* concerning construction workers assigned to particular job sites on a long-term basis.
>
> The plaintiff was employed to provide in-home services to a range of clients. As a travelling employee, she was covered for workers' compensation purposes in respect of all her travel (apart from any substantial deviation from her work route for personal reasons). This included her travel from her home to her first client of the day, and travel from her last client of the day to her home, even though she was not considered by the employer to be working (and was not paid) for such travel.
>
> [emphasis added]

[53] The background facts set out in the other WCAT decisions support the employer's position, on a factual basis (that it is a generally accepted standard in the home care industry that neither time nor mileage is paid to a residential care aide/home care worker for travel from their home to the home of their first client of the day). Nevertheless, I consider that the issue as to the scope of workers' compensation coverage is properly determined based on the policy set by the board of directors. It is clear, both in terms of the definition of a traveling employee as one who typically travels to more than one work location in the course of a normal workday as part of their employment duties, and in the express reference in policy to home care workers, that such workers are traveling employees. The general principle is that workers'

compensation coverage is applicable to traveling employees from the time they leave their house in the morning until they return home at the end of the workday, provided they travel reasonably directly and do not make major deviations for personal reasons. An employment connection generally exists for traveling employees during normal meal or other incidental breaks, such as using the washroom facilities, so long as the worker does not make a distinct departure of a personal nature.

[54] Policy in the *Assessment Manual* at item #AP1-1-3, "Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms," provided as follows:

> The Board, for the purposes of the Act, has the exclusive power under section 96(1) to determine status. The Board's jurisdiction cannot be excluded by private agreement between two parties, whether the agreement does this expressly, or indirectly by labelling the parties as independent operators (who would therefore be independent firms). The Board makes its own judgment of their status, having regard to the terms of the contract and the operational routines of the relationship. However, decisions made by the Board are for workers' compensation purposes only and have no binding authority under other statutes.

[55] That policy concerns the issue as to whether a person is a worker or an independent operator, rather than the question as to whether a worker's injury arose out of and in the course of the worker's employment. I consider, however, that the reasoning is also applicable in relation to this latter issue. Evidence regarding the manner in which a worker is remunerated is relevant information to be taken into account. However, it cannot be considered determinative of the scope of the worker's employment for the purposes of determining entitlement to workers' compensation coverage.

[56] To use a common example, workers who have a normal place of employment at their employer's premises would normally not be considered by the employer to have commenced work until they "clocked in" or otherwise entered the employer's building to go to their workstation at the beginning of their shift. Policy at item #C3-20.00, "Employer-Provided Facilities," provides that workers' compensation coverage may extend to a worker's fall in the employer's parking lot, proximal to the start or stop of a worker's shift. It is the Board's policies regarding the scope of workers' compensation coverage which apply to determining whether an injury is one which arose out of and in the course of the employment, rather than the rules or practices of the particular employer or industry regarding the boundaries of a worker's paid working time.

[57] The general boundaries of workers' compensation coverage are established by the policies of the board of directors, pursuant to their authority to make policy under section 82 of the Act. While a decision on status must take into account the factual information regarding the particular employment situation, this must be addressed within the framework of the binding policies provided by the board of directors. The

scope of workers' compensation coverage is therefore not determined based solely on industry practices regarding paid working time.

[58] Item #17.2.2 of WCAT's *Manual of Rules of Practice and Procedure* identifies clarity, consistency, and predictability as key values in decision-making. However, pursuant to section 250(1) of the Act, WCAT is not bound by legal precedent. This means that WCAT need not follow the reasoning expressed in prior decisions. In addition, the policies in Chapter 3 of the RSCM II underwent significant revisions, and the amended policies apply to accidents and injuries occurring on or after July 1, 2010. Accordingly, consideration must be given to whether the effect of any of the policy changes is such as to make the reasoning in prior decisions inapplicable. Pursuant to section 250(2) of the Act, WCAT must apply a policy of the board of directors that is applicable in a case.

[59] In this case, the plaintiff provided services to several different clients in their homes. She saw E as her first client of the day on almost every Friday morning. However, I am not persuaded that this fact, or the views of workers and employers in the home care industry as to the travel which is considered to be part of the working time, changes the essential nature of her role as a traveling worker. Industry may determine for its own purposes the appropriate parameters for paid working time (just as an employer may determine that a worker's paid employment commences after the worker clocks in at his or her assigned workstation, even though workers' compensation coverage may commence with the worker's arrival in the employer's parking lot). With respect to the scope of workers' compensation coverage, I find persuasive the analysis set out in the various WCAT decisions cited above, under both the former and current versions of the policy in Chapter 3 of the RSCM II. Home care workers are employed to travel, and as such, are generally considered to be traveling in the course of the employment from the time the worker commences travel on the public roadway.

[60] The Board (under section 96(1) of the Act) and WCAT (under section 254 of the Act) have exclusive jurisdiction to determine the scope of workers' compensation coverage. I consider that the exclusion of coverage in relation to travel to the employer's premises is in the nature of an exception to the broad coverage provided for traveling employees. I find persuasive the reasoning in the cited decisions (particularly *WCAT-2006-02659*) that the regularity of a trip to visit a client is not sufficient to make such a journey into routine commuting, where the travel represents an integral part of the service being provided. With respect to the various scenarios postulated by the plaintiff, I consider that consistency and predictability in decision-making is better achieved by giving broad effect to the general principles set out in policy rather than by attempting to provide similar decisions regarding the scope of workers' compensation coverage to workers who are in dissimilar circumstances. Accordingly, I consider it reasonable to find that the plaintiff's travel occurred in the course of her employment, notwithstanding that the plaintiff in *WCAT-2012-00482* was not covered in respect of her travel to an independent living facility where she normally worked five days a week. I find that the facts of this case are analogous to those addressed in *WCAT-2012-02852* and *WCAT-2014-01595*. I agree with the reasoning in those decisions. I find, therefore,

that the plaintiff was covered for workers' compensation purposes in her travel to see her first client of the day on November 18, 2011 (subject to consideration as to whether she had embarked on any major deviation for personal reasons).

[61] Google Maps shows that a large square is formed by viewing 56th Avenue (Highway 10) across the top, 200th Street on the right side, 176th Street (Highway 15) on the left side, and 32nd Avenue along the bottom. Traveling further west along 32nd Avenue or 24th Avenue from 176th Street/Highway 15 leads to the area in which the Starbucks was located and in which the residence of E was located. The Starbucks was located between 24th Avenue and 28th Avenue, near 152nd Street or the King George Highway. E's residence was located a few blocks away, near 156th Street and 25th Avenue.

[62] In this case, the plaintiff intended to stop at Starbucks on her way to see her first client. The coffee shop was located within a few blocks of the home of her first client. I accept the defendants' submission that both the 176th Street route and the 200th Street route were reasonably direct routes that she could have taken to travel to the home of her first client.

[63] The policy concerning traveling employees provides that an employment connection generally exists for traveling employees during normal meal times or other incidental breaks, so long as the worker does not make a distinct departure of a personal nature. I do not consider that stopping for a coffee would, in the case of a traveling employee, involve a substantial deviation for personal reasons. In this case, the coffee shop was located close to the home of her client. At the time of the accident, the plaintiff was on a reasonably direct route for going to the client's residence, in any event.

[64] The plaintiff was injured in an accident on November 18, 2011. I find that the accident occurred in the course of her employment, as a traveling employee. A rebuttable presumption arises under section 5(4) of the Act:

> In cases where the injury is caused by accident, where the accident arose out of the employment, unless the contrary is shown, it must be presumed that it occurred in the course of the employment; and where the accident occurred in the course of the employment, unless the contrary is shown, it must be presumed that it arose out of the employment.

[65] I find that the presumption that the plaintiff's injury by accident also arose out of her employment has not been rebutted. I find, therefore, that the plaintiff's injury in the November 18, 2011 accident arose out of and in the course of her employment.

Status of the defendants, Vern Douglas and Michael Egli

[66] By memorandum dated April 30, 2014, a research and evaluation analyst, Audit and Assessment Department of the Board, advised that there was no record of a registration with the Board in the name of Vern Douglas. It's On Electric Company

Incorporated was registered with the Board under account number 759359, and Vernon Douglas was shown as the shareholder. This account had been registered with the Board since July 4, 2006 and was registered at the time of the November 18, 2011 accident.

[67] Douglas provided an affidavit sworn on June 4, 2014. He had owned and operated It's On since June 6, 2006. On November 18, 2011, he was in the business of installing electrical systems into residential and commercial buildings. He hired Egli on July 4, 2011, as a full-time electrician. Egli continued to work for him until February 24, 2012. On November 18, 2011, Egli arrived at the It's On facility located at 3463-156A Street in Surrey. Egli received instructions to go to a jobsite in Langley, using a van owned by Douglas. He was instructed to take Mathew Pereira, an apprentice electrician, to the job site. The van was for business use only. Egli was paid on an hourly basis, commencing from the time he clocked in at the It's On facility. This included payment for travel time. It's On provided T4 slips to Egli for income tax purposes.

[68] I have reviewed the uncertified rough draft of the examination for discovery evidence of Egli on November 28, 2013. I find that this evidence is consistent with the other evidence which has been provided.

[69] The plaintiff concedes that Egli was a worker within the scope of the Act at the time of the accident. I find that this is supported by the evidence set out above. The accident occurred after Egli had first reported to the employer, and was traveling from the employer's premises to another work location pursuant to his employer's instructions. He was driving a vehicle bearing his employer's markings, during paid working hours, and was transporting a co-worker to the worksite. There is no evidence of a deviation from his work route for personal reasons.

[70] The defendants submit that Egli was a worker of Vern Douglas who was an employer at the time of the accident.

[71] The defendants have furnished a copy of the BC Company Summary for It's On, showing that it was incorporated on June 9, 2006 (although this document uses the spelling 'Its On' Electric Company Incorporated, without an apostrophe in "Its"). Douglas was its director and president. Charlotte Douglas was its chief executive officer. It's On was registered with the Board as an employer, and also provided Egli with a T4 slip as his employer.

[72] I find that Egli was a worker (of It's On) within the meaning of Part 1 of the Act. I further find that any action or conduct of Egli, which caused the alleged breach of duty of care, arose out of and in the course of his employment within the scope of Part 1 of the Act

[73] The defendants request a determination that at the time of the accident, Douglas was an employer engaged in an industry within the meaning of Part 1 of the Act.

[74] Policy at item #AP1-1-4 of the *Assessment Manual* provided:

> **(c) Principals of corporations or similar entities**
>
> As the incorporated entity is considered the employer, a director, shareholder or other principal of the company who is active in the operation of the company is generally considered to be a worker under the Act.

[75] Pursuant to this policy, It's On was the employer as the incorporated entity. I find that Douglas was an active shareholder and director of the company (which was registered with the Board). As such, Douglas was a worker within the meaning of Part 1 of the Act.

[76] A determination has not been requested regarding any action or conduct on the part of Douglas. The plaintiff alleges negligence on the part of Douglas as set out in paragraph 12 of the Notice of Civil Claim. If a determination is required in relation to any action or conduct by Douglas, a request may be made for a supplemental Certificate.

Conclusion

[77] I find that at the time of the November 18, 2011 accident:

(a) the plaintiff, Andrea Stock, was a worker within the meaning of Part 1 of the Act;

(b) the injuries suffered by the plaintiff, Andrea Stock, arose out of and in the course of her employment within the scope of Part 1 of the Act;

(c) the defendant, Michael Egli, was a worker within the meaning of Part 1 of the Act;

(d) any action or conduct of the defendant, Michael Egli, which caused the alleged breach of duty of care, arose out of and in the course of his employment within the scope of Part 1 of the Act; and,

(e) the defendant, Vern Douglas, was a worker within the meaning of Part 1 of the Act.

Herb Morton
Vice Chair

HM:gw

NO. M143785
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE WORKERS COMPENSATION ACT
REVISED STATUTES OF BRITISH COLUMBIA 1996, CHAPTER 492, AS AMENDED

BETWEEN:

ANDREA STOCK

PLAINTIFF

AND:

VERN DOUGLAS and MICHAEL EGLI

DEFENDANTS

C E R T I F I C A T E

UPON APPLICATION of the Defendants, VERN DOUGLAS and MICHAEL EGLI, in this action for a determination pursuant to section 257 of the *Workers Compensation Act*;

AND UPON NOTICE having been given to the parties to this action and other interested persons of the matters relevant to this action and within the jurisdiction of the Workers' Compensation Appeal Tribunal;

AND AFTER an opportunity having been provided to all parties and other interested persons to submit evidence and argument;

AND UPON READING the pleadings in this action, and the submissions and material filed by the parties;

AND HAVING CONSIDERED the evidence and submissions;

THE WORKERS' COMPENSATION APPEAL TRIBUNAL DETERMINES THAT at the time the cause of action arose, November 18, 2011:

1. The Plaintiff, ANDREA STOCK, was a worker within the meaning of Part 1 of the *Workers Compensation Act*.

2. The injuries suffered by the Plaintiff, ANDREA STOCK, arose out of and in the course of her employment within the scope of Part 1 of the *Workers Compensation Act*.

3. The Defendant, MICHAEL EGLI, was a worker within the meaning of Part 1 of the *Workers Compensation Act*.

4. Any action or conduct of the Defendant, MICHAEL EGLI, which caused the alleged breach of duty of care, arose out of and in the course of his employment within the scope of Part 1 of the *Workers Compensation Act.*

5. The Defendant, VERN DOUGLAS, was a worker within the meaning of Part 1 of the *Workers Compensation Act*.

CERTIFIED this day of September, 2014.

_____

Herb Morton
VICE CHAIR

NO. M143785
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE WORKERS COMPENSATION ACT
REVISED STATUTES OF BRITISH COLUMBIA 1996, CHAPTER 492, AS AMENDED

BETWEEN:

ANDREA STOCK

PLAINTIFF

AND:

VERN DOUGLAS and MICHAEL EGLI

DEFENDANTS

SECTION 257 CERTIFICATE

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