WCAT Workers' Compensation Appeal Tribunal

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WCAT Decision Number: **WCAT-2011-01139**
WCAT Decision Date: **May 5, 2011**

Panel: Herb Morton, Vice Chair

WCAT Reference Number: 082229-A

Section 257 Determination
In the Supreme Court of British Columbia
New Westminster Registry No. S113600
David George Anthony v. Daniel Geoffrey Green, Burrard International Holdings Inc., GolfBC Group Ltd., Joey Tomato's (Canada) Inc., Earls Restaurant Ltd., Saltlik Restaurants Ltd. and Saltlik Steakhouse (Alberni) Ltd., Defendants, and Burrard International Holdings Inc., GolfBC Group Ltd., Joey Tomato's (Canada) Inc., Earls Restaurant Ltd., Saltlik Restaurants Ltd. and Saltlik Steakhouse (Alberni) Ltd., Third Parties

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Applicants: Joey Tomato's (Canada) Inc., Earls Restaurant Ltd., Saltlik Restaurants Ltd. and Saltlik Steakhouse (Alberni) Ltd. ("defendants" and "third parties")

Respondents: David George Anthony ("plaintiff")

Daniel Geoffrey Green ("defendant")

Burrard International Holdings Inc. and GolfBC Group Ltd. ("defendants" and "third parties")

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Introduction

[1] The plaintiff, David George Anthony, suffered a broken leg in a golf cart accident on August 14, 2006. He was participating in a golf tournament sponsored by the defendants and third parties Joey Tomato's (Canada) Inc., Earls Restaurant Ltd. (Earls), Saltlik Restaurants Ltd. and Saltlik Steakhouse (Alberni) Ltd. (the four restaurant defendants). The four restaurant defendants were separate legal entities, referred to informally as part of the Earls group of companies (which was comprised of two primary chains of restaurants, Earls Restaurants and Joey's Restaurants). In this decision, I will use the term Joey's to encompass both Joey Tomato's (Canada) Inc. and other related restaurants operating under a similar name, unless otherwise specified.

[2] The plaintiff was riding as a passenger on a golf cart being driven by the defendant, Daniel Geoffrey Green, when the cart tipped over. The plaintiff was employed by Joey's in its head office as a culinary manager, product development. Green was working with the OPM Restaurant (OPM) located in Edmonton, Alberta. The restaurant defendants paid for the expenses of their employees who attended the tournament, including registration fees, travel and accommodation.

[3] The defendant and third party, Burrard International Holdings Inc., is the parent company for GolfBC Holdings Inc. and GolfBC Group Ltd. The golf tournament was held at the Okanagan Golf Club, which was operated by GolfBC Holdings Inc. (a company which was registered with the Board). GolfBC Group Ltd. was not registered as an employer with the Board.

[4] 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 restaurant defendants on September 23, 2008. On November 13, 2009, counsel for Burrard International Holdings Inc. and GolfBC Group Ltd. wrote to request determinations of the status of these defendants and third parties, as well as of a related company, GolfBC Holdings Inc.

[5] Transcripts have been provided of the following examinations for discovery: David George Anthony (November 5, 2009), Daniel Geoffrey Green (October 30, 2009), Christopher Mills, vice president, culinary department, and executive chef, Joey's (November 3, 2009 and May 4, 2010), Brad Attwood, general manager, Earl's (November 2, 2009), and Daniel Matheson, general manager of the Okanagan Golf Club (November 2, 2009).

[6] Written submissions have been provided by the parties to the legal action, and by GolfBC Holdings Inc. I find that this application can be properly considered on the basis of the written evidence and submissions, without an oral hearing. This decision does not require a determination involving any significant issue of credibility. A sur-rebuttal was submitted by the plaintiff on May 3, 2011. I declined to receive this submission for consideration. I am not persuaded there are reasons requiring an opportunity for sur-rebuttal in this case.

Issue(s)

[7] Determinations are requested concerning the status of the parties to the legal action, and concerning GolfBC Holdings Inc., at the time of the August 14, 2006 golf cart accident.

Jurisdiction

[8] 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, David George Anthony

[9] The plaintiff did not submit an application for workers' compensation benefits in relation to the injuries he sustained in the August 14, 2006 golf cart accident. The plaintiff gave evidence in an examination for discovery on November 5, 2009. He began working as a line cook at Earls Bridgepark in Burnaby in 1996 (Q 17). He attended chef school in 1998, at Lansing College and the Kellogg Centre at Michigan State University. He subsequently attended the Vancouver Community College chef's apprenticeship program (Q 5).

[10] Around 1998, the plaintiff returned to working at Earls at its Broadway location in Vancouver. He worked there as a prep cook, as an assistant sous chef, and as a sous chef, until May 2000, and he returned to Bridgepark Earls (Q 17) to complete his chef training (Q 19). Around November 2000 he moved to Port Coquitlam Earls where he was the head chef until May of 2002. He moved to North Vancouver Earls as the regional training chef until January 2003. He moved to Joey's in Calgary, where he was the assistant kitchen leader or assistant head chef at South Port Joey's which became Chinook Centre Joey's (Q 19). He worked there until January 2004, and then moved to Crossroad's Joey's in Edmonton where he was a sous chef. This became South Commons, and he continued working there until June of 2004 as a sous chef. At question 21, the plaintiff further explained:

> …I returned to Vancouver and was trained on the OPM menu, which was a new concept that we were opening in Edmonton. That was from July of '04 through the middle of August '04.
>
> I moved back to Edmonton. I was the head chef or kitchen leader at OPM throughout the opening until early November of 2004.
>
> I returned to the corporate head office in Vancouver – in Coquitlam, sorry, and began working in the culinary department. I was the director of product development from November of 2004 through February of 2007.

[11] Prior to the date of the accident, the plaintiff's entire working career had been with various companies related to Earls (Q 31). By letter dated February 14, 2011, counsel for the restaurant defendants advised that his clients are referred to as a "group of companies" in an informal sense, rather than a legal sense. They are separate legal entities.

[12] A copy has been provided of the plaintiff's T4 for 2006, showing employment income of $66,815.75 from Joey Tomato's (Canada) Inc. There is no dispute regarding the plaintiff's status as an employee. He was employed on a salary basis to work as a culinary director at Joey's head office. I find that the plaintiff was a worker within the meaning of Part 1 of the Act. A central issue is whether his injuries in the accident on August 14, 2006 arose out of and in the course of his employment.

[13] The plaintiff's accident occurred on Monday, August 14, 2006, at the Buzz Fuller Classic Golf Tournament being held at the Okanagan Golf Course in Kelowna, B.C. (Q 168). Prior to the accident in 2006, the plaintiff was invited to attend the annual golf tournaments in 2000, 2001 and 2005 (Q 173). He did not attend in 2000, as the chef who was training the plaintiff was moving to another location and the plaintiff felt it best to stay behind and work during that busy period (Q 191). In 2000, the plaintiff received the invitation to attend the golf tournament from the chef that was training him, to go in his place (Q 195). In 2001, 2005 and 2006 he received the invitations by e-mail (Q 195). In 2001 he did not attend as he was on holidays (Q 192). He attended in 2005 and 2006 (Q 193). He was not part of the cooking team for the 2005 or 2006 golf tournaments (Q 836 to 841). The plaintiff stated (Q 852):

> Q That you were expected to attend the golf tournament and you were part of the cooking team?
> A I was not part of the cooking team for those years. Definitely not for 2006. Marcia Fordyce was running the cooking team. I was not part of it.

[14] He further explained (Q 859):

> ...when I was golfing in 2005 and 2006, there's no way I could have been part of the cooking team because I couldn't have actually been in the kitchen to help cook. I was golfing. The dinner service would have taken place shortly after the last groups were off the tee.

[15] The plaintiff stated that in 2006, he was not expected to help cook in any way with the dinner, service or otherwise (Q 860). The plaintiff cooked at the 2007 golf tournament (Q 856). The purpose of the golf tournament had not been explained to the plaintiff (Q 197):

> No, nothing other than the general understanding is that it's in honour of our patriarch, Bus Fuller, and it's for head office employees, senior level operators, supplier partners and personal friends of the Fuller family.

[16] The plaintiff confirmed that it was his impression that the golf tournament was simply a social event that had been put on and paid for by the company (Q 202). He was not aware of any business being done at the golf tournaments and had not seen any reports concerning the tournaments (Q 204 to 206). The plaintiff did not consider that his attendance at the tournament was obligatory (Q 207). He explained (Q 208):

> I know of people that have not gone in certain instances. I know I haven't.

[17] He did not feel that there was an expectation that he would attend (Q 209). No one made any comments to him to indicate that he should attend the tournament or that there might be negative consequences if he failed to do so (Q 210). Joey's reimbursed

the plaintiff for his travel and accommodation expenses in attending the golf tournament in Kelowna (Q 211 to 212, 275).

[18] Prior to the accident, the plaintiff would normally play golf approximately 10 to 15 times a year (Q 239). He owned his own golf clubs, but had never belonged to a golf club (Q 240 to 241).

[19] The plaintiff drove from Vancouver to Kelowna in his own car in order to attend the golf tournament (Q 271 to 274). He arrived in Kelowna on August 13, 2006, the night before the golf tournament began (Q 259). He stayed at the Best Western hotel in Kelowna (Q 260 to 261). He attended a related function on the evening of August 13, 2006 (Q 262 to 266).

[20] The golf tournament was scheduled to begin at 11:00 a.m. on August 14, 2006 (Q 269). The plaintiff arrived at the golf course at approximately 10:35 a.m. (Q 257). Tickets were for sale at $5.00 each, which could be used to purchase items (such as drinks) during the tournament (Q 279). The plaintiff did not purchase any tickets (Q 280). The plaintiff did not have any drinks during the 20 minutes before the tournament began (Q 292).

[21] The plaintiff was riding on a golf cart with Green, as well as Cam Duke and Gabe Apelo-Cruz (Q 287, 293). The golf cart was equipped with an ice box attached to the side for drinks (Q 293). Green had a beer in the cart (Q 295). There were also "beverage holes" where drinks and food were available for purchase at various locations throughout the golf course (Q 302). There would be a table or tent set up to dispense items (Q 305). These were sponsored by different suppliers, such as Red Bull and Mott's (Q 307 to 310). At one tent there was a barbecue and there were "shots" available (Q 311).

[22] From the commencement of the tournament until the time of the accident, the plaintiff had three alcoholic beverages (Q 312). These consisted of two beers and one Caesar (Q 316). The plaintiff estimated that Green had had seven drinks (Q 312). The plaintiff's evidence was that Green continued drinking up to the time of the accident (Q 315). The plaintiff's recollection was that Green consumed four to five beers, two Vodka Red Bulls and a Caesar (Q 317). The plaintiff did not recall having received any instructions, advice or directions prior to the commencement of the tournament, by his employer or by the golf course personnel, as to how they were expected to conduct themselves on the golf course (Q 320). Alcohol was freely available (for purchase with a ticket) throughout the course (Q 322 to 323), at both the beverage holes and from the "beer cart girl" (Q 323 to 324).

[23] The accident occurred at hole number 4 in the Quail course (Q 343). Green was driving the golf cart (Q 351). The plaintiff described the occurrence of the accident as follows (Q 352):

> We're proceeding down the cart path. I say to Dan, there's my ball. He turns left on to – off of the cart path towards the ball. He about I would say five or six feet before the hole slammed on the brakes, cocked the wheel hard to the left, the back end of the cart turned out to the right, it started to skid, began to tip. Dan's weight shifted, my leg came out and broke.

[24] Christopher Mills gave evidence in an examination for discovery on November 3, 2009. He was employed by Joey's as the vice president of culinary, executive chef (Q 3). The plaintiff reported to Mills (Q 35, 42).

[25] Mills advised that the Buzz Fuller Classic golf tournament was the social event of the year. The top two operators in every restaurant, all of the senior management and key suppliers were invited. It was an opportunity get together and speak face-to-face (Q 227 to 228). Mills advised that the plaintiff was not senior management, so participation in the golf tournament would be a perk for him (Q 229). Mills had not seen written material describing the purpose of the golf tournament (Q 230 to 231).

[26] Mills further advised that the golf tournament was held over two days. There was a dinner event on the Sunday night (August 13, 2006) at Earls in Kelowna, followed by golf on Monday and Tuesday. He stated (Q 245): "We have breakfast, golf, dinner, party, party Monday. We do the same thing on Tuesday." Business meetings were held in the days following the golf tournament. (Q 244 to 245).

[27] Mills' evidence was that senior operators or restaurant operators who were invited to the golf tournament were expected to attend (Q 310 to 311):

> Q What do you mean by "expected"?
> A By expected is, you know, participation in all of our management events is, it's not our Joey style to be mandatory but to be expected, meaning we hold our operators to a very high account and if they cannot attend something it's assumed it's for very good reasons.
> Q Such as?
> A Death in the family, they couldn't make it because they have something that they're committed to that is just impossible or it's not possible for them to change prior commitments, but that these are important events and, you know, the expectation is they'll be there.

[28] Mills advised that this expectation would not apply to the plaintiff as he was neither a senior operator or operating a restaurant (Q 313). However, Mills advised that the plaintiff was scheduled to perform cooking at the tournament (Q 314 to 316):

> Q Did he have any specific role, if at all, for this tournament?
> A Yeah, he was scheduled to be cooking dinner on one of the nights with a group of cooks and myself and Marcia Fordyce, who was heading up the dinner that year.
> Q Did you select him personally to help you cook?
> A I can't recall the situation. I believe Marcia organized all the cooks. Because I was going and he worked with me, he would have been selected either by me or Marcia.
> Q What do you mean because you were going?
> A Because I manage or look after, I oversee the dinner every year that I'm up there.

[29] Mills further stated (Q 318 to 321):

> A The expectation I would have of the chefs that work directly with me is that they be up there cooking with me.
> Q And would that include the plaintiff?
> A Yes.
> Q Would it be fair to say that the plaintiff was expected to be up there cooking with you on the day in question?
> A Yes.
> Q As part of his job?
> A Yes.

[30] Mills further explained, in relation to the plaintiff (Q 322):

> My expectation, and this is coming from being in a field where, you know, camaraderie is also important, and, you know, it's like going to war, when you're going to cook an event, and, you know, there's a certain group you always cook with and those directly cooking with me would be expected by me to be there. That was one of his roles in going up.

[31] Mills advised that the plaintiff was being paid his salary while he was attending the golf tournament (Q 324).

[32] In a further examination for discovery on May 4, 2010, Mills confirmed that he was the plaintiff's direct supervisor in August 2006 (Q 24 to 27). They both worked at Joey's head office (Q 33). Buzz Fuller attended the golf tournament (Q 48). Stu, Stan and Jeff Fuller were the sons of Buzz Fuller (Q 45). Following the golf tournament, senior management of the restaurant defendants were going to remain in Kelowna for some meetings that week (Q 68). The plaintiff would have returned to his usual work

following the tournament (Q 69). The attendees of the tournament were the senior management personnel of Earls, Joey's and Saltlik restaurant groups (the top two operators in each restaurant) (Q 75 to 77). As well, the key suppliers also attended the golf tournament (Q 81). The plaintiff was invited both because he worked at head office (Q 85), and because he was up there to cook (Q 86):

> As well as being part of the culinary department, we were doing a dinner which we do every year, so he was up there to cook.

[33] A dinner for 300 people was to be held on the Monday (Q 87 to 89). Mills explained that the plaintiff was to be engaged in plating the food, rather than in preparing the food for the dinner (Q 89 to 90). That would allow the plaintiff to golf during the day, and then participate in the dinner that night (Q 91). Mills expected the plaintiff to report to the kitchen following the golf (Q 92). The golfing would have ended around 4:00 p.m. to 4:30 p.m., and the dinner would have been around 6:30 p.m. (Q 93 to 94). Mills left the golf course one or two holes early, around 3:30 p.m., so that he could report to the kitchen (Q 95). Mills did not recall having any discussion with the plaintiff about his role in the dinner on the Monday evening (Q 108).

[34] Mills remained in Kelowna for two days following the golf tournament, for staff meetings (Q 132 to 133). The meetings he attended were for the Joey Group (Q 134). Mills further stated that one of the persons he played golf with was Gabe Apelo-Cruz (who also golfed with the plaintiff prior to his accident). Mills commented (Q 262):

> …he is one of our key partners, works with Kraft Heinz Canada, so, you know, being in culinary he would be a great guy that we would talk shop with while we were golfing.

[35] Brad Attwood gave evidence at an examination for discovery on November 2, 2009. Attwood was the general manager of the Earls restaurant in Kelowna (Q 2). He was in charge of organizing the 2006 golf tournament (Q 13). He advised that alcohol for the 2006 golf tournament was purchased through Earls Kelowna from the B.C. Liquor Distribution Branch and liquor suppliers (Q 32 to 33), and then delivered to the golf course for the purposes of the tournament (Q 34). The golf course charged a corkage fee of $2.00 per drink (Q 36). Tickets were available for purchase ($5.00 for a $5.00 ticket) to be used on the course to purchase food or drinks or to participate in certain competitions (Q 63 to 65). The tickets were only sold by employees of the restaurant defendants, and not by golf club employees (Q 172). There was no limit on the number of tickets a person could purchase (Q 176). $30,000.00 was generated by the sale of tickets (Q 66). The restaurant defendants supplied all the food and drinks at the tournament (Q 68 to 71). The persons dispensing drinks on the course were employees of the restaurant defendants (Q 178).

[36] The registration fees for all employees were paid by the employer (Q 72). Suppliers had to pay their own registration fees (Q 79). The golf carts rental expenses were paid for by the restaurant defendants as part of the green fees (Q 106). Attwood described the purpose of the golf tournament as follows (Q 126):

> …It's for sharing of information between the RLs [restaurant leaders] and the KLs [kitchen leaders], an opportunity for them to connect, meet with the suppliers, interact with the individuals at head office.

[37] These purposes were not written down anywhere, but represented Attwood's understanding or impression that he had developed over the years (Q 137 to 139). He further advised (Q 143):

> It's a company event and I think it's expected that general managers and restaurant leaders are expected to go.

[38] There were no express instructions requiring employees to attend the tournament (Q 150).

[39] In a letter dated May 25, 2010, counsel for the restaurant defendants advised, in answer to a request made at the examination for discovery of Attwood:

> 7. …attendance at the golf tournament counted as work days and employees were not expected to use vacation days.

[40] At the time of the accident on August 14, 2006, the policies in chapter 3 of the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II), included the following:[1]

> **#14.00 ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT**
>
> Before a worker becomes entitled to compensation for injury under the *Act*, the injury must arise out of and in the course of employment. Confusion often occurs between the term "work" and the term "employment". **Whereas the statutory requirement is that the injury arise out of and in the course of employment, it is often urged that a claim should be disallowed because the injury is not work related or did not occur in the course of productive activity. There are, however, activities within the employment relationship which would not normally be considered as work or in any way productive**. For example, there is the worker's drawing of pay. An injury in the course of

[1] In this decision, I have applied the policies in effect at the time of the accident on August 14, 2006. While the board of directors of the Board has approved a revision to the policies in chapter 3 of the RSCM II, those new policies only apply to injuries or accidents that occur on or after July 1, 2010.

such activity is compensable in the same way as an injury in the course of productive work.

Lack of control of a situation by the employer is not a reason for barring a claim otherwise acceptable. Control by an employer is an indicator that a situation is covered under the *Act* at a particular time, but if that control does not exist there may be other factors which demonstrate an employment connection.

No single criterion can be regarded as conclusive for deciding whether an injury should be classified as one arising out of and in the course of employment. Various indicators can be and are commonly used for guidance. These include:

(a) whether the injury occurred on the premises of the employer;

(b) whether it occurred in the process of doing something for the benefit of the employer;

(c) whether it occurred in the course of action taken in response to instructions from the employer;

(d) whether it occurred in the course of using equipment or materials supplied by the employer;

(e) whether it occurred in the course of receiving payment or other consideration from the employer;

(f) whether the risk to which the employee was exposed was the same as the risk to which the employee is exposed in the normal course of production;

(g) whether the injury occurred during a time period for which the employee was being paid;

(h) whether the injury was caused by some activity of the employer or of a fellow employee.

(i) whether the injury occurred while the worker was performing activities that were part of the regular job duties; and

(j) whether the injury occurred while the worker was being supervised by the employer.

This list is by no means exhaustive. All of these factors can be considered in making a judgement, but no one of them can be used as an exclusive test.

#16.10 Intoxication or Other Substance Impairment

Since it is seldom possible to have blood alcohol level or other test data available in adjudicating such claims, other evidence is used to evaluate the existence and extent of any impairment.

Claims involving impairment should be classified under the following headings.

1. Workers Permitted to Drink

There may be cases where drinking was part of the permitted activities of the employment. For example, bartenders or other kinds of sales representatives may have been encouraged or permitted by their employers to drink with customers. In that kind of case, any injury resulting from intoxication would generally be compensable. But there may well be exceptions, for example, where it is concluded that the worker had gone beyond the pursuit of the employer's interests to engage in a purely social event.

2. Workers Not Permitted to Drink

Where drinking is not a permitted part of the employment, injuries resulting from intoxication or other substance impairment must be adjudicated as follows:

(a) Employment causation

If the injury arose in the course of the employment, and something in the employment relationship had causative significance in producing the injury, it is still one arising out of and in the course of employment notwithstanding the impairment. Examples are where an intoxicated sailor fell into the water while attempting to board a vessel, and where a forest industry worker was run over by a logging truck. In these kind of cases, if the injury results in death or serious or permanent disablement, it is compensable.

Once it is apparent that an injury is one arising out of and in the course of employment, it does not cease to be so merely because some other factor, extrinsic to the employment, also has causative significance. An industrial injury is often caused, for example, by inattentiveness due to

nausea, depression, lack of sleep, or a variety of other factors. But it is still compensable.

(b) No employment causation

There may be cases where, although the injury occurred at work, impairment alone was the cause. Suppose, for example, a worker is walking over normal ground when, unable to maintain support as a result of impairment, stumbles to the ground and is injured in the fall. In that case, it might appear that nothing in the employment relationship had any causative significance in producing the injury. It would then not be an injury arising out of the employment and not compensable. Also, as indicated in policy item #16.60, a worker's actions or conduct may induce the Board to conclude that the injury did not arise out of and in the course of the employment.

#20.20 Recreational, Exercise or Sports Activities

The organization of, or participation in, recreational, exercise or sports activities or physical exercises is not normally considered to be part of a worker's employment under the *Act*. There are, however, exceptional cases when such activities may be covered. The obvious one is where the main job for which a worker is hired is to organize and participate in recreational activities. There may also be cases where, although the organization or participation in such activities is not the main function of the job, the circumstances are such that a particular activity can be said to be part of a worker's employment.

In assessing these cases, the general factors listed under policy item #14.00, *Arising Out Of and In The Course of Employment* are considered. Policy item #14.00 is the principal policy that provides guidance in deciding whether or not an injury arose out of and in the course of employment.

In considering specific cases relating to recreational, exercise or sports activities, the following factors are also among those considered in determining whether an injury is compensable. All relevant factors must be considered and no single factor is determinative. Relevant factors not listed in policy may also be considered.

1. Activities Part of Job

Were the activities part of the job? If so, this is a factor that favours coverage. For example, a ski instructor injured while engaging in personal skiing activities unrelated to the instruction of pupils would not be covered.

However, coverage may be provided if the skiing activity involved the instructor's pupils and was deemed part of the teaching activities.

2. Instructions from the Employer

Was the worker instructed or otherwise directed by the employer to carry out the exercise activity or to participate in the sports, exercise or recreational activity? For example, did the employer direct, request or demand that the worker participate in an activity as part of the employment? The clearer the direction, the more likely this will favour coverage.

Was participation purely voluntary on the part of the worker? In some instances the employer may simply sanction participation without directing or requesting participation. If so, this is a factor that does not favour coverage.

3. During Working Hours

Did the recreational, exercise or sports activity occur during normal working hours? If so, this is a factor that favours coverage.

Where recreational, exercise or sports activities occur outside of normal working hours, including paid lunch breaks, this does not favour coverage. However, this factor does not automatically preclude coverage. For example, coverage may be extended where a teacher is injured while coaching or supervising a student soccer game in the schoolyard during his or her lunch break or after school.

Coverage under the *Act* cannot be extended by an employer simply by labelling an off duty recreational, exercise or sport activity as mandatory.

4. Receipt of Payment or Other Consideration from the Employer

Was the worker paid full salary or other consideration while participating in the activity? The payment of salary favours coverage. The fact that salary or other consideration was not paid does not favour coverage.

5. Activity Supervised

Was the activity supervised by a representative of the employer having supervisory authority? This favours coverage. The fact that the activity was not supervised does not favour coverage.

6. Fitness a Job Requirement

Was physical fitness a requirement of the job? This factor is concerned with whether fitness is required in order to perform the job (e.g., muscle strength or aerobic capacity). If physical fitness is a requirement of the job, this is a factor favouring coverage.

Fitness training or exercise is more likely to be viewed as a job requirement where a significant degree of aerobic capacity or strength is needed to perform the job properly, but the work itself does not provide sufficient conditioning. This may be the case, for instance, for certain professionals such as police or firefighters, who may require the ability to react quickly to sudden and strenuous emergencies.

It is recognized that any recreation or exercise activity which adds to a worker's general health and enjoyment of life may be said to assist them in their work and, therefore, to benefit their employer. However, to cover these activities under the *Act* for that reason alone would obviously be to expand its horizons far beyond what the *Act* intended.

7. Public Relations for Benefit of Employer

Was there an intention to foster good relations with the public, or a section of the public with which the worker deals? A worker may have been injured while engaged in a recreational, exercise or sport activity, on behalf of the employer, involving the public, or a section of the public, which was clearly designed to foster good community relations. If so, this is a factor favouring coverage.

8. On Employer's Premises

Did the activity take place on the employer's premises? This is a factor favouring coverage.

Coverage is normally not extended to recreational, exercise or sports activities occurring off the employer's premises. However, coverage is not automatically precluded respecting such injuries. Rather, a weighing of all relevant factors is required. For example, coverage may be extended where a teacher is injured while supervising students during an off-site sports day during regular school hours organized by the employer.

After a decision-maker has considered the factors listed in policy items #14.00 and #20.20, he or she must weigh the evidence to determine whether the injury arose out of and in the course of

> employment. The standard of proof applied is based on a balance of probabilities and consideration is also given to section 99 of the *Act*.
>
> [emphasis added]

[41] As noted in the first paragraph of item #14.00, there may be activities within the employment relationship which would not normally be considered as work or in any way productive. The factors in item #14.00 assist in evaluating the extent to which the circumstances involving a worker's injury were employment-related. With respect to the factors at item #14.00, I consider that several of these are indicative of some degree of connectedness between the plaintiff's employment and his participation in the golf tournament.

[42] The days on which the plaintiff attended the golf tournament were treated as workdays, and the plaintiff received his regular salary. Arguably, the plaintiff's injury was caused by some activity of a fellow employee, albeit in the very limited sense that Green was an employee of one of the restaurant defendants which were related to each other as part of the Joey's group of companies, albeit involving separate corporations. The plaintiff's injury occurred in the course of using equipment supplied by his employer, in the sense that the cost of using the golf cart was paid by the plaintiff's employer as part of the registration fees.

[43] Green submits that while there is some connection between the plaintiff's playing golf and his employment, it was basically just an employer-sponsored social function involving none of his usual workday duties or responsibilities. Green submits that playing golf was not sufficiently connected to the plaintiff's employment to bring any injuries that the plaintiff sustained at the golf tournament within the course of the plaintiff's employment.

[44] The evidence of Attwood was that the golf tournament advanced several purposes which benefitted the employer. Accordingly, it may be considered that the plaintiff's injury occurred in the process of doing something for the benefit of the employer. While the plaintiff was not instructed to attend the tournament, I interpret the evidence as meaning that there was strong encouragement for the plaintiff's attendance. Given the fact that participation by the senior personnel of the restaurant defendants was expected, their presence and participation in the golf tournament may be viewed as involving some degree of supervision by the employer (although there was no direct supervision of the plaintiff at the time of the accident). To the extent that participation in the golf tournament was viewed as a "perk," it may also be considered that the plaintiff's injury occurred in the course of receiving consideration from the employer.

[45] Although the plaintiff's accident did not occur on the premises of his employer, the restaurant defendants had booked the golf course for two days, and were using the golf course facilities for food preparation and for the serving of alcoholic beverages by their own employees (who were receiving their regular hourly wages). These facts provide some limited support for a conclusion that the golf course had become a temporary

work site of the restaurant defendants. This factor is somewhat weak, however, given that the restaurant defendants were separate corporations albeit ones which were all related as part of the Earl's and Joey's group of restaurants.

[46] Of the ten factors in RSCM II item #14.00, the only two factors which are not met to any extent were (f) and (i): the risk to which the plaintiff was exposed was not the same as the risk to which he was exposed in the normal course of production, and the injury did not occur while the worker was performing activities that were part of the regular job duties.

[47] Regard must also be had to the policy set out in RSCM II item #20.20 regarding "Recreational, Exercise or Sports Activities." This policy provides that there may be cases where, although the organization or participation in such activities is not the main function of the job, the circumstances are such that a particular activity can be said to be part of a worker's employment.

[48] I do not consider that the plaintiff's activities in playing golf were "part of the job," as that phrase is used in item #20.20. I do not consider that the plaintiff was instructed or otherwise directed by the employer to participate in the golf tournament, although I consider that there was strong encouragement of such participation. The golf tournament occurred during working hours (two full workdays), which favours coverage. The plaintiff was to be paid full salary while participating in the two-day golf tournament, which favours coverage. The presence of large numbers of the employer's management and supervisory personnel favours coverage, even if the golfing activities were not supervised. Fitness was not a job requirement. I consider that the factor involving "Public Relations for Benefit of Employer" is met, given the involvement of the suppliers in the golf tournament. While the golf tournament did not occur on the employer's premises, I consider that the circumstances of this case may be equated with those described in policy, which notes that coverage may be extended where a teacher is injured while supervising students during an off-site sports day during regular school hours organized by the employer.

[49] Policy at #20.20 further stated:

> After a decision-maker has considered the factors listed in policy items #14.00 and #20.20, he or she must weigh the evidence to determine whether the injury arose out of and in the course of employment. The standard of proof applied is based on a balance of probabilities and consideration is also given to section 99 of the *Act*.

[50] For WCAT's purposes, the relevant statutory reference is section 250(4), which provides that if WCAT is hearing an appeal respecting the compensation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, WCAT must resolve that issue in a manner that favours the worker. Section 257(3) stipulates that Part 4 of the Act, except section 253 (4), applies to

proceedings under section 257 as if the proceedings were an appeal under Part 4 of the Act. I interpret the phrase "in a manner that favours the worker" as meaning in a manner which favours the provision of workers' compensation coverage to an injured worker, whether or not this in fact accords with the worker's wishes in the particular case.

[51] *WCAT-2005-03922-ad*, *Sarauer v. Lawes*, reasoned in relation to somewhat similar circumstances as follows:

> In considering the application of these criteria to the plaintiff's circumstances, in connection with the policies at RSCM items #14.00 and #20.20, I consider the following facts significant. The golf tournament was arranged by the plaintiff's employer, to be held on a work day. The plaintiff was employed in a sales position, receiving a monthly salary for a three-month training period while he developed a client base so that he could move into commission sales. He was asked, or at least strongly encouraged, by his sales manager to attend the golf tournament, and his employer paid half the cost. Participation in the golf tournament was limited to JTC [Just'n Time Communications Ltd.] employees and clients (possibly including spouses/partners).
>
> It may readily be inferred that the employer's interest in the success of the golf tournament, the involvement of existing clients of JTC in the tournament, the fact that the plaintiff was employed in a sales capacity and was being paid a monthly salary while developing a client base, and the specific request from the plaintiff's sales manager that he attend the tournament, would have combined to have a strong persuasive effect in compelling the plaintiff's attendance at the tournament. In the particular circumstances of this case, involving the inclusion of JTC's sales personnel with JTC's clients to foster business relationships, I consider that the golf tournament had a significant employer benefit, rather than simply involving a general boost to morale. I find that this supports the extension of workers' compensation coverage in this case. I find that the weight of the evidence supports the conclusion that the plaintiff's attendance at the golf tournament arose out of and in the course of his employment.
>
> I have noted the plaintiff's evidence that he consumed four beers prior to the accident. However, having regard to the policy at RSCM item #16.10, I do not find this affects my determination. It would appear that drinking was permitted by the employer, given the plaintiff's evidence that the owner was handing out beers. In any event, the plaintiff's own consumption of alcohol would not appear to have been a factor in the occurrence of his injuries. He was a passenger on the golf cart when it

> tipped over. Thus, the employment relationship was of causative significance in producing his injuries.

[52] *WCAT-2005-03922-ad* concerned a golf cart accident which occurred in 2000, prior to the amendment of the policy at RSCM II items #14.00 (to add factors (i) and (j)) and #20.20 effective June 1, 2004. While the reasoning in that case was provided in the context of somewhat different policies, I consider that it is useful as an example of decision dealing with somewhat similar circumstances.

[53] The plaintiff cites *WCAT-2006-00948*, *McCarthy v. McIntosh et al*., which found that the plaintiff's attendance at a golf event was voluntary, thus removing her injuries from the course of her employment:

> Upon consideration of the circumstances of the plaintiff's injuries, I find it significant that she received no wages for her activities on August 26, 2002. Employees were asked to let their general manager know "if you can come." The plaintiff was, in effect, being asked to donate several hours of her services to make this event a success. The notice to all staff inviting their participation referred both to the fact that the golf tournament would be a fun day which would promote the restaurant, and to the goal of raising $5,000.00 for the Children's Charity Foundation. Employees were not asked to use personal time solely for the purpose of doing promotion and marketing for the restaurant. They were asked to participate in an event which would both promote the restaurant and raise money for charity. I agree with the submissions of plaintiff's counsel on this issue, that fund raising for charity was an important aspect of the tournament, which likely was significant to employees in deciding to volunteer their time for this function. Accordingly, I find that the plaintiff's circumstances are ones to which the policy at RSCM II item #20.50 would apply.

[54] *WCAT-2006-00948* reached a different conclusion regarding the status of the defendant McIntosh. It reasoned:

> It is evident from the employer's evidence that it found that holding a golf tournament as a fundraising event for charity was also a cost-effective method of promoting the restaurant. In this context, the direction to McIntosh from the owners, that he participate in the event as a regular workday for which he would be paid, may be viewed as indicating that his services were required to ensure the success of the tournament as a promotional event. This is consistent with the wording of the memo to the general managers regarding the golf tournament, from which I infer that their participation was not optional or voluntary.

[55] *WCAT-2006-00948* further reasoned:

> I find that McIntosh's circumstances were distinguishable from those of the plaintiff (primarily due to the facts that he was directed to work at the tournament, and was paid for doing so). Accordingly, a different conclusion is warranted regarding his status.

[56] However, McIntosh's circumstances are distinguishable from those of the plaintiff in the present case, in that he was performing productive work duties at the time he was injured pursuant to his employer's directions. (That decision was also issued under the policy which preceded the June 1, 2004 amendments to items #14.00 and #20.20.)

[57] The plaintiff also cites *WCAT-2008-02555*, *Barlow v. Sierra*, which applied policy items #14.00 and #20.20 as amended June 1, 2004. In that case, the plaintiff was injured when she fell from a golf cart. The WCAT panel found that the plaintiff's injuries did not arise out of and in the course of her employment. The plaintiff was an information systems and security administrator, and had been invited by another firm, with whom she and her employer had a close working relationship, to attend a charity golf tournament. The plaintiff did not discuss her attendance at the tournament with her employer. Based on her working arrangement (which involved working several extra hours on occasion), she was free to take time off at no loss of pay. The WCAT panel reasoned:

> Generally speaking, any social activities in which employees engage may result in fostering good relationships to the benefit of the employer. It is also obvious, however, that compensation coverage cannot extend to all social activities in which employees might choose to engage on the basis that it fosters good relationships. I do not consider that this, in itself, can be accorded much weight as a benefit to the employer.
>
> Turning to the policy at item #20.20 and the factors described in that policy, the plaintiff was not involved in activities that could be viewed as part of her job. The plaintiff was also not acting on instructions from the employer. **In fact, there appears to have been no communication between the plaintiff and the employer regarding the plaintiff's attendance at the golf tournament prior to the event. I consider it likely that the plaintiff assumed a tacit approval from her employer but there was clearly no direction or request for her participation.** According to the employer's evidence, there was a public relations benefit to the employer in that the plaintiff's attendance was intended to foster good relations with the healthcare industry in general. The other factors in this policy have been considered under the policy at item #14.00.

> There are factors in this case that support an employment connection and factors that do not. There was some benefit to the employer in her attendance in that it fostered good employee relationships. But, I find this to be a rather nebulous benefit and do not consider that it weighs heavily in favour of establishing a relationship between the worker's employment and the golf tournament. The employer has also stated that the plaintiff's attendance was a benefit in that it went to fostering good relationships with the healthcare industry in general. This is an even more indirect benefit to the employer, given that the plaintiff's role in the company was primarily technical and the evidence does not indicate that she would have had any ongoing relationship with other entities in the healthcare industry as part of her usual employment. The other factors in support of an employment connection are that the golf tournament took place during working hours and the plaintiff was on salary when she participated.
>
> **On the other hand, the plaintiff was not requested or instructed to attend nor was there any discussion regarding her attendance prior to the golf tournament.** This factor is described in more detail in the policy at item #20.20. It states that, where the employer has simply sanctioned participation without requesting or directing it, this is a factor that does not favour coverage. This latter factor and all of the other factors listed in the policies weigh against a finding that the plaintiff was in the course of her employment when she attended the golf tournament.
>
> [emphasis added]

[58] The WCAT panel concluded that the plaintiff's participation in the golf tournament was not sufficiently connected to her employment to bring any injuries that she sustained at the golf tournament within the course of her employment.

[59] I find that the circumstances of the present case are distinguishable from those addressed in *WCAT-2008-02555* in an important respect. While the plaintiffs in both cases were injured during working hours, and while in receipt of their regular salaries, in that case the plaintiff's participation in the golf tournament was initiated by an invitation from another firm and was not discussed with the plaintiff's employer. In this case, the plaintiff's employer, in conjunction with the other restaurant defendants, was a sponsor of the golf tournament (which was not a charity event). Given that this was an important event for the plaintiff's own employer, and for which the plaintiff's own employer bore the additional expenses relating to the plaintiff's out-of-town travel and accommodation as well as registration fees, I consider that there was a more substantial connection to the plaintiff's employment.

[60] The plaintiff has argued that each of the restaurant defendants is a separate legal person, and each must be considered as an individual rather than as part of some undefined amalgam that serves only to blur the legal distinctions between them. For the purpose of determining the plaintiff's status, I consider it sufficient to find that the

plaintiff's employer was one of the sponsors of the golf tournament together with the other related companies.

[61] On balance, I consider that the weight of the evidence supports a conclusion that the plaintiff's injury on August 14, 2006 arose out of and in the course of his employment. The plaintiff's entire working career had involved employment for the restaurant defendants. The annual golf tournament was a significant event for the restaurant defendants, and there was strong encouragement for participation in this event. The plaintiff's hotel and travel expenses were reimbursed in relation to his travel from Vancouver to Kelowna to attend the tournament, his employer treated the two days of the golf tournament as regular workdays for which he would receive his regular salary, and his employer paid for the plaintiff's registration fees. Attwood's evidence was that the golf tournament advanced the employer's interests in several ways, in allowing for the sharing of information between the restaurant leaders and kitchen leaders, and providing them with an opportunity to connect, to meet with the suppliers, and to interact with the individuals at head office. I consider it significant that the plaintiff's employer was one of the sponsors of the event, that the plaintiff's employer paid his registration fees, that the plaintiff continued to receive his regular salary, that his travel and accommodation expenses for his out-of-town trip to Kelowna were reimbursed by his employer, and that the two days of the golf tournament were treated as regular workdays rather than vacation days. I find that there was a sufficient degree of employment-connectedness to support the conclusion that the plaintiff's participation in the golf tournament was part of his employment.

[62] Section 5(4) of the Act establishes a presumption where a worker sustains an injury as a result of an accident. If the accident occurred in the course of employment, it is presumed that it arose out of the employment unless the contrary is shown and *vice versa*.

[63] The plaintiff's injury was caused by the golf cart accident. I find that his injury occurred while he was in the course of his employment. A rebuttable presumption arises that his injuries arose out of his employment. I find that this presumption is not rebutted by the evidence in this case. Accordingly, I find that the plaintiff's injuries arose out of and in the course of his employment within the scope of Part 1 of the Act.

[64] In reaching this conclusion, I have taken into account the evidence regarding the plaintiff's consumption of alcohol at the golf tournament prior to the accident. I find that in the context of the golf tournament, this was a situation in which drinking was part of the permitted activities of the employment as contemplated by the policy at RSCM II item #16.10. Pursuant to that policy, any injury resulting from intoxication would generally be compensable. I do not consider that this was a situation in which it may be concluded that the plaintiff had gone beyond the pursuit of the employer's interests to engage in a purely social event. Furthermore, the plaintiff's own consumption of alcohol would not appear to have been a significant factor in the occurrence of his

injuries. He was a passenger on the golf cart when it tipped over. I agree with the reasoning in *WCAT-2005-03922-ad* on this point.

[65] Mills, the plaintiff's direct supervisor, stated that the plaintiff was expected to cook at one of the golf tournament dinners. This was disputed by the plaintiff. I did not find it necessary to my decision to make a factual finding on this issue. For the purposes of making my decision, I have proceeded on the basis of the plaintiff's evidence that he was not required to assist with the dinner service.

Status of the defendant, Daniel Geoffrey Green

[66] Green gave evidence in an examination for discovery on October 30, 2009. At the time of the accident, he was employed at the OPM in Edmonton (Q 5). OPM was owned by Joey's (Q 6). The four restaurant defendants are all owned or majority owned by the Fuller family (Q 7). OPM was one of the 80 or so companies in the Fuller empire (Q 8). The golf tournament was being put on by the Fuller family through their corporate structures and entities (Q 10). The tournament was called the Buzz Fuller Classic, and Buzz Fuller was the senior member of the Fuller family (Q 13).

[67] Green commenced employment in 2004 at the Coquitlam location of Joey's (Q 15). After five months, he moved to work at OPM in Edmonton (Q 16 to 19), where he worked until the accident on August 14, 2006 (Q 20). In August 2006, he was employed as a chef at OPM (Q 22). He also attended the golf tournament in 2005 (Q 28). His understanding was that it was "recommended" that he attend the tournament (Q 30 to 32, 36). Green had known the plaintiff since they were in their teens (Q 44). They had never golfed together before (Q 47).

[68] On August 14, 2006, Green was golfing with the plaintiff, Cam Duke, the manager with Joey's in Calgary (Q 133) and Gabe Apelo-Cruz, a Heinz representative (Q 135). Green came to the tournament as a passenger in a car driven by Dean Lowry, OPM's general manager.

[69] Green and Dean Lowry were the only two persons from OPM who attended the golf tournament (Q 60 to 65). The plaintiff and Green worked together in opening OPM in Edmonton (Q 79 to 81). Green knew the plaintiff both in a professional capacity and on a social and personal basis (Q 91). Green was subsequently transferred to the Broadway location of Joey's in Vancouver in July 2007. In April 2008 he was transferred to the Coquitlam Joey's (Q 101 to 102). In 2006, Green had T4 income of $65,457.92 which was all from OPM (Q 110 to 113). Green confirmed that his attendance at the golf tournament was a social event which was not part of his regular job (Q 115).

[70] The plaintiff has provided a copy of an Alberta Corporation Search for OPM. OPM (South Edmonton) Ltd. registered as an Alberta corporation on November 28, 2002. Its registered office and records address were #1003, 10010 – 106 Street in

Edmonton. The directors of OPM were Jeffrey Fuller, Stanley Fuller and Stewart Fuller, all with addresses in West or North Vancouver, British Columbia. The voting shareholders were listed as OPM Oriental-Pub-Music Ltd., with 100 percent of the voting shares, located in North Vancouver.

[71] A disputed issue is whether Green was a worker within the meaning of Part 1 of the Act. Green notes that his usual place of employment was in Edmonton, Alberta, and he was only in Kelowna to attend the company golf tournament. Green submits that it is not for WCAT to determine complicated issues respecting "conflicts of law" principles. He acknowledges, however, that WCAT does have exclusive jurisdiction to determine whether Green was at the time of the accident, a "worker."

[72] I find that the question to be addressed is whether Green was a worker within the meaning of Part 1 of the British Columbia Act. I do not have jurisdiction to determine whether Green was a worker within the meaning of the Alberta workers' compensation legislation.

[73] By memorandum dated June 1, 2009, a research and evaluation analyst, Audit and Assessment Department of the Board (the analyst), advised that there was no record of a registration with the British Columbia Board for the OPM Asian Bistro and Lounge, located at 1820 – 99th Street in Edmonton, Alberta.

[74] Green points out that section 2(1) of the Act provides:

> **2** (1) This Part applies to all employers, as employers, and all workers in British Columbia except employers or workers exempted by order of the Board.

[75] Green submits that he was obviously "in British Columbia" when the accident happened. Accordingly, it is necessary to consider whether he was a worker "exempted by order of the Board."

[76] On August 14, 2006, policy at item AP1-2-1 of the *Assessment Manual* concerning "Exemptions from Coverage" provided:

> **(b) What exemptions have been granted?**
>
> The Board has made the following general exemptions from coverage:
>
> …
>
> (3) **Certain employers with no place of business in the province who temporarily carry on business in BC, but do not employ a BC resident, are exempt from Part 1 of the *Act* provided they are covered in another jurisdiction that provides**

compensation for occupational injuries and diseases and meet additional criteria set out below. However, unless required as a matter of constitutional law, the exemption described in this section does not apply to the occupational health and safety provisions in Part 3 of the *Act*.

…

(ii) If an employer is not in the trucking industry in BC, the additional criteria are set out in the following table:

Number of actual or proposed working days in BC in a year	**Number of actual or proposed visits to BC, in a year**	**Status if meets basic criteria and columns 1 and 2 apply**
15 or more	Any number	Not exempt
10 to 14	3 or more	Not exempt
10 to 14	1 to 2	Exempt
9 or less	Any number	Exempt

[77] The policy at AP1-2-1 further stated:

(c) Exclusions from coverage under constitutional law

Some workers and employers are excluded from coverage under Part 1 and Part 3 of the *Act* as a matter of constitutional law as they have no attachment to BC industry. This includes:

(1) Consulates and trade delegations from foreign countries.

(2) With respect to air transportation firms from outside of BC conducting business in BC, flight crews (cockpit crew and cabin crew) who are on turn-around in BC for a short period of time if:

(i) they are not BC residents;

(ii) the firm does not supply service between BC points; and

(iii) they are employed exclusively as members of the flight crew.

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[78] These criteria were initially established by *Decision of the Governors No. 60*, "Exemption from Coverage under Part One of the *Workers Compensation Act,*" 10(2) W.C.R. 167. Appendix C stated at page 173:

> **Appendix C — Non-Residents**
>
> Some non-resident workers and employers are excluded from coverage under the *Act* as a matter of constitutional law, for example, non-resident air line flight crews who work in the province for short periods (See Policy No. 20:20:31 of the *Assessment Policy Manual*.) This position is not changed by *Bill 63*.
>
> Prior to January 1, 1994, Section 2(2)(e) of the *Act* also specifically excluded "employers with no place of business in the Province who temporarily carry on business in the Province but do not employ a worker resident in the Province." Existing Policy No. 20:30:40 determines when non-resident workers and employers who temporarily enter the province fall within the scope of this provision.
>
> Though Section 2(2)(e) has been repealed, *Bill 63* limits coverage to workers and employers "in British Columbia." This raises issues as to when coverage should commence for non-resident employers and workers entering the province. The same concerns arise as to predictability and the Board's ability to effectively administer compensation and safety and health coverage as are discussed in Appendix A in regard to domestic workers.
>
> Employers now covered by Policy No. 20:30:40 be exempted under *Bill 63*. The policy reflects the Board's experience as to what is a practicable and reasonable solution to the question where to draw the line between coverage and non-coverage. The industries affected are aware of and accustomed to these policies. The employers in question will usually have compensation coverage for their employees in another jurisdiction. To cover the few situations where they do not have coverage, it is proposed that the existing policy be modified to specifically require this.

[79] The plaintiff cites the criteria in the table contained in policy at item AP1-2-1 and submits:

> The policy provides a table for employers who are not in the trucking business, as in this case, and exempts coverage where the "actual or proposed working days in BC in a year" are 9 or less for any number of visits or 10-14 for 1 to 2 visits in a year. In this case, Green's attendance at the Golf Tournament fits into the exempt categories.

[80] The plaintiff submits that none of the restaurant defendants employed Green. By letter dated February 14, 2011, counsel for the restaurant defendants advised that in 2006, Joey's owned the OPM company, but none of the restaurant defendants, as named in the underlying civil action, employed Green.

[81] *WCAT-2004-01785* reasoned as follows in relation to the criteria formerly contained at item #20:30:40 of the *Assessment Policy Manual*:

> This policy ensures that there is sufficient connection between an employer and the Province to be able to bring an employer within the Province's legislative competence and make it subject to the Act. The policy is drafted with respect to employers; it does not specifically address workers. Yet, I find that where an employer's employees are the visitors to British Columbia whose number of visits and duration of visits satisfy the requirements of the policy those employees are workers under the Act and their employer is an employer covered by the Act. I consider that where an employer is brought under the Act by the conduct of its employees (especially in the case of corporate entities who by necessity are only able to act through their employees) those employees undertaking that conduct become workers.

[82] An application for judicial review of that decision was dismissed in *Harris v. BC (WCAT)*, 2004 BCSC 1618. The court reasoned:

> [32] In my view the WCAT's determination, for the purposes of the Act, that the petitioner's presence in the province constituted both the employer's presence and the worker's presence in British Columbia was not patently unreasonable.
>
> [33] It was open to the WCAT to find that an employer can satisfy the requirements of the Policy through the presence or intended presence of its workers for work in the province. The very premise recited in the Policy's opening paragraph, upon which the exemption order and the Policy are founded, is that the employer has no place of business in the province and employs no British Columbia resident workers. Among other things, the Policy states that so long as a firm comes into the province for a period of nine days or less, it is exempt from the application of the Act. In these circumstances, it was not unrealistic for the WCAT to consider that an employer's only presence may be that of the employee coming to the province.

[83] The court concluded:

> [37] I am satisfied that the WCAT was within its jurisdiction in finding that the petitioner did work in the province and did meet the sufficient connection test. I am satisfied that the petitioner did fall within the provisions of Policy 20:30:40 and that the petitioner's work and intended work therefore could not result in an exemption under the Act. I am satisfied that this decision was not patently unreasonable. Accordingly the petition is dismissed.

[84] In this case, OPM did not have a place of business in British Columbia. It was an Alberta corporation, operating a restaurant in Edmonton. It had no restaurant operations in British Columbia. No evidence has been provided to show that OPM was temporarily carrying on business in British Columbia, separate from its participation in the annual golf tournament. Pursuant to the policy, where an employer from another jurisdiction temporarily carries on business in British Columbia but does not employ a B.C. resident, they are exempt from coverage under the B.C. Act if the number of actual or proposed visits to BC in a year is one to two.

[85] For the purpose of determining Green's status, I have assumed that OPM was covered in another jurisdiction (Alberta) that provides compensation for occupational injuries and diseases. While it would have been preferable to have been provided with evidence on this point, I consider that this inference may reasonably be drawn based on the compulsory nature or workers' compensation coverage under the Alberta *Workers' Compensation Act*, R.S.A. 2000, c. W-15 and the sophisticated nature of the corporate structures set up by the restaurant defendants and their related companies.

[86] Given that Green and Lowry were both working at OPM in Edmonton, I infer that they were residents of Alberta. Pursuant to the policy at AP1-1-2, I find that OPM was exempt from coverage under the Act, as an employer with no place of business in British Columbia which was temporarily carrying on business in British Columbia, which did not employ a British Columbia resident, and which was covered in another jurisdiction that provides compensation for occupational injuries and diseases. I find that there is a lack of evidence to show that OPM had a sufficient connection with British Columbia to be a British Columbia employer. Accordingly, Green was not employed by a British Columbia employer, and was not engaged in a relationship of employment within the meaning of Part 1 of the Act.

[87] I find that the exemption of Green's employer, OPM, from the application of the Act, means that Green was not a worker engaged in a relationship of employment under Part 1 of the Act. Accordingly, I find that Green was not a worker within the meaning of Part 1 of the Act. It necessarily follows that any action or conduct of Green, which caused the alleged breach of duty of care, did not arise out of and in the course of employment within the scope of Part 1 of the Act.

Status of the defendant and third party, Earls Restaurant Ltd.

[88] The analyst advised that Earls Restaurant Ltd., account number 318905, was registered with the Board at the time of the August 14, 2006 accident. In an examination for discovery on November 2, 2009, Brad Attwood, general manager of the Earls restaurant in Kelowna, advised that he was primarily in charge of organizing the 2006 golf tournament.

[89] I find that at the time of the plaintiff's accident, the defendant and third party, Earls Restaurant Ltd., was an employer engaged in an industry within the meaning of Part 1 of the Act. I further find that any action or conduct of the defendant, Earls Restaurant Ltd., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act.

Status of the defendant and third party, Saltlik Steakhouse (Alberni) Ltd.

[90] By memorandum dated June 1, 2009, the analyst advised that Saltlik Steakhouse (Alberni) Ltd., account 747692, was registered with the Board at the time of the August 14, 2006 accident.

[91] I find that at the time of the plaintiff's accident, the defendant and third party, Saltlik Steakhouse (Alberni) Ltd., was an employer engaged in an industry within the meaning of Part 1 of the Act. I further find that any action or conduct of the defendant, Saltlik Steakhouse (Alberni) Ltd., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act.

Status of the defendant and third party, Joey Tomato's (Canada) Inc.

[92] By memorandum dated June 1, 2009, the analyst advised that there was no record of a registration with the Board in the name Joey Tomato's (Canada) Inc. She advised that this firm is listed as the shareholder in two other companies: Joey's Restaurant (Bentall One) Inc. and Joey's Global Grill (Burrard) Inc.

[93] By letter of September 23, 2008, counsel for the restaurant defendants advised that at the time of the plaintiff's injury, the plaintiff was employed by Joey's as a culinary director at its head office. He advised that this head office is currently located at Bentall One, Suite 950 Box 90, 505 Burrard Street, Vancouver, and was former located at 5500 Lougheed Highway, Burnaby. He further advised that the registration number for Joey's head office was 557106.

[94] The restaurant defendants submit that it is clear that they were employers at the time of the accident, as they had many hundreds of people in their service engaged in work in an industry. The restaurant defendants have not otherwise specifically addressed the

status of Joey Tomato's (Canada) Inc., as to the basis on which it claims to be an employer under the Act even though it was not registered as such with the Board.

[95] It is evident that there are many related restaurants in British Columbia under the name Joey's or some variation of that name. These include:

Name	WCB account number
Joey's Restaurant (Burnaby) Inc.	851318
Joey's Restaurant (Bentall One) Inc.	809818
Joey's Global Grill (Kitsilano) Inc.	751896
Joey's Global Grill (Burrard) Inc.	794701
Joey Tomato's Kitchen (Kelowna) Inc.	477106
Joey Tomato's Kitchen (Coquitlam) Inc.	557106

[96] There is also a cancelled registration for Joey Tomato's Kitchen (Port Coquitlam) Inc., account number 547207. Some, but not all, of these registrations were referenced in the June 1, 2009 memorandum by the analyst. As I am not relying on this information for the purposes of my decision, I did not consider it necessary to disclose the information regarding the other account numbers for comment. (This registration information was accessible to WCAT on the Board's electronic assessment system.)

[97] All of these restaurants have an address on 949 3rd Street West, in North Vancouver, unit 108. However, they are separately incorporated. Given the separate incorporations, it is necessary to consider the evidence regarding Joey Tomato's (Canada) Inc. specifically in order to determine whether this company was an employer.

[98] The plaintiff has provided a copy of a BC Company Summary for Joey Tomato's (Canada) Inc., printed on January 25, 2011 and stated to be current to November 4, 2010. This shows that it was incorporated on August 26, 1991. Its last annual report was filed on August 26, 2007. It was not in liquidation or in receivership. Its previous names were Joey Tomatoe's Restaurants Ltd. and Joey Tomato's Kitchen (Canada) Inc., with name changes on October 14, 1992 and July 31, 2002. The directors and officers are listed as Jeffrey W. Fuller (chief executive officer and president) and Leroy E. Fuller (chair and secretary).

[99] 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*. A spouse, child or other family member of a principal or a shareholder for whom earnings are reported for income tax purposes is considered to be active in the business and a worker.

[100] One possibility is that Joey Tomato's (Canada) Inc. was required to be registered as an employer, on the basis that a director, shareholder or other principal of the company was active in the operation of the company, even if it did not have any other workers.

[101] The plaintiff was employed on a salary basis to work as a culinary director at the Joey's head office. A copy has been provided of the plaintiff's T4 for 2006, showing employment income of $66,815.75 from Joey Tomato's (Canada) Inc. Christopher Mills also stated that he was employed by Joey Tomato's Canada Ltd. (Q 5, May 4, 2010). However, in his November 3, 2009 discovery, Mills acknowledged that he was not aware of the name of his employer on his T4 (Q 7) and did not understand the corporate structure of the Earls empire.

[102] Joey Tomato's (Canada) Inc. did not register with the Board as an employer. However, a failure to register with the Board would not affect its status as an employer, if the weight of the evidence established that it was in fact an employer at the time of the accident. *WCAT-2004-04112-ad* (noteworthy) reasoned:

> As outlined above, Ms. Case was not registered as an employer with the Board at the time of the MVA [motor vehicle accident]. A number of previous appeal decisions, including *Appeal Division Decision #2003-0182*, have stated that lack of registration does not affect a party's status as an employer within the meaning of Part 1 of the Act. As the panel in *Appeal Division Decision #93-0336* (9 *WCR* 705) stated, at page 710:
>
> > I appreciate the apparent unfairness of that conclusion — that Bow Ridge could fail to remain registered as an employer in B.C. and pay no assessments in B.C., and yet be entitled to the protections found in Section 10 of the Act. However, the *Act* and the policy of the Board are clear. An employer in a compulsory industry in B.C. is an employer under the *Act* whether or not it is registered – otherwise the protection of its workers under the *Act* would be uncertain. An employer who fails to register is subject to certain penalties, but no exception is made in the *Act* or Board policy regarding Section 10 protections. That is, there is nothing that allows an employer who fails to register to be found to be an employer for the purposes of assessments and penalties but not for the purposes of Section 10. An employer under Part 1 of the Act is an employer for all of Part 1.

[103] I agree with the reasoning in *WCAT-2004-04112-ad*.

[104] Given the complicated corporate structuring, it may be that assessment premiums were paid regarding the plaintiff under another Joey's account with the Board rather than under the name Joey Tomato's (Canada) Inc. There are indications that the head office for Joey's was formerly located in Coquitlam (Anthony, Q 21) or in Burnaby (September 23, 2008 letter from counsel for the restaurant defendants). The Joey's head office is currently located at Bentall One in Vancouver (May 4, 2010 examination for discovery of Mills, Q 34). It may simply be that the name Joey Tomato's (Canada) Inc. should be added to one of the other Joey's accounts with the Board's Assessment Department, and that the lack of registration with the Board is not indicative of a failure to pay assessment premiums.

[105] Notwithstanding its lack of registration with the Board, I accept that the T4 issued to the plaintiff, together with the plaintiff's evidence regarding his employment, shows that the defendant and third party, Joey's Tomato's (Canada) Inc., was an employer engaged in an industry within the meaning of Part 1 of the Act. I further find that any action or conduct of the defendant, Joey's Tomato's (Canada) Inc., or its servant or agent, which caused a breach of duty of care to the plaintiff, arose out of and in the course of employment within the scope of Part 1 of the Act.

Status of the defendant and third party, Saltlik Restaurants Ltd.

[106] By memorandum dated June 1, 2009, the analyst advised that there was no record of a registration in the name Saltlik Restaurants Ltd. It is not apparent whether this company was required to be registered as an employer, on the basis that a director, shareholder or other principal of the company was active in the operation of the company and thus considered a worker, or on the basis that it had other workers. Given the lack of specific evidence regarding this defendant, I will defer certification for the purpose of inviting additional evidence and submissions. The status of this defendant may then be addressed in a supplemental certificate.

Status of GolfBC Holdings Inc., and of the defendants and third parties, Burrard International Holdings Inc. and GolfBC Group Ltd.

[107] By memorandum dated June 1, 2009, the analyst advised that Burrard International Holdings Inc., account 417708, was registered with the Board at the time of the August 14, 2006 accident. The analyst further advised that there was no record of a registration in the name GolfBC Group Ltd. She further advised that there are multiple registrations under a similar name, "GolfBC Holdings Inc."

[108] The analyst advised that GolfBC Holdings Inc., dba Quail Ridge Golf Club/Okanagan Golf Club, account number 651403, was registered with the Board at the time of the August 14, 2006 accident.

[109] On November 13, 2009, counsel for Burrard International Holdings Inc. and GolfBC Group Ltd. wrote to request determinations of the status of these defendants and third parties, as well as of GolfBC Holdings Inc. Pursuant to section 257 of the Act, WCAT may determine any matter that is relevant to the action and within the Board's jurisdiction under this Act. I accept that a determination of the status of GolfBC Holdings Inc. is relevant to the legal action and within WCAT's jurisdiction. Accordingly, I will also certify as to the status of GolfBC Holdings Inc. even though it is not a party to the legal action.

[110] An affidavit has been provided by Donald Lee, executive vice president of GolfBC Holdings Inc., sworn on December 21, 2010. GolfBC Holdings Inc. is not currently a party to the legal action brought by the plaintiff. Lee states that GolfBC Holdings operates the Okanagan Golf Club located at 3200 Via Centrale in Kelowna, B.C., where the August 14, 2006 incident in which the plaintiff was injured is alleged to have occurred. Lee states:

> 4. All of the operations of the Golf Course are carried out by GolfBC Holdings employees and this was the case at the time of the Incident and continues to be the case to date. Burrard International has never been involved in the operation of the Golf Course. GolfBC Group Ltd. ("GolfBC Group") has never been involved in the operation of the Golf Course.
>
> 5. The Defendant Burrard International Holdings Inc. ("Burrard International") is the parent company for GolfBC Holdings and GolfBC Group. GolfBC Group Ltd. is named as a Defendant in the action commenced by Mr. Anthony. Burrard International owns all of the shares of GolfBC Holdings and GolfBC Group.
>
> 6. GolfBC Holdings and Burrard International were both registered with Worksafe BC at the time of the Incident.

[111] Daniel Matheson gave evidence at an examination for discovery on November 2, 2009. He was the general manager of the Okanagan Golf Club (Q 3). He described himself as an employee of GolfBC Group Ltd. (Q 4 and 5). He stated that GolfBC Group Ltd. operated the Okanagan Golf Club (Q 14). At question 296, he confirmed that GolfBC Holdings Inc. was a registered employer with the Board. However, no questions were posed to Matheson regarding the distinction between GolfBC Group Ltd. and GolfBC Holdings Inc., and it is not apparent from his evidence as to whether he was distinguishing between these two companies.

[112] By submission of December 22, 2010, counsel for GolfBC Group Ltd. confirms that at all material times, GolfBC Group Ltd. was an extraprovincial company which was registered in British Columbia. He states that Burrard International Holdings Inc. is the parent company for GolfBC Holdings Inc. and GolfBC Group Ltd. He states that

GolfBC Group Ltd. had nothing to do with the operation of the Okanagan Golf Club and was not registered with the Board.

[113] I find that at the time of the plaintiff's accident, the defendant and third party, Burrard International Holdings Inc., was an employer engaged in an industry within the meaning of Part 1 of the Act. I further find that any action or conduct of the defendant, Burrard International Holdings Inc., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act.

[114] I find that at the time of the plaintiff's accident, GolfBC Holdings Inc. (which is not a party to the legal action), was an employer engaged in an industry within the meaning of Part 1 of the Act. I further find that any action or conduct of the defendant, GolfBC Holdings Inc., or its servant or agent, which caused a breach of duty of care to the plaintiff, arose out of and in the course of employment within the scope of Part 1 of the Act.

[115] It is not apparent whether GolfBC Group Ltd. was required to be registered as an employer, on the basis that a director, shareholder or other principal of the company was active in the operation of the company and thus considered a worker, or on the basis that it had other workers. Given the lack of specific evidence regarding the defendant and third party, GolfBC Group Ltd., I will defer certification for the purpose of inviting additional evidence and submissions. The status of this defendant may then be addressed in a supplemental certificate.

Conclusion

[116] I find that at the time of the August 14, 2006 accident:

(a) the plaintiff, David George Anthony, was a worker within the meaning of Part 1 of the Act;

(b) the injuries suffered by the plaintiff, David George Anthony, arose out of and in the course of his employment within the scope of Part 1 of the Act;

(c) the defendant, Daniel Geoffrey Green, was not a worker within the meaning of Part 1 of the Act;

(d) any action or conduct of the defendant, Daniel Geoffrey Green, which caused the alleged breach of duty of care, did not arise out of and in the course of employment within the scope of Part 1 of the Act;

(e) the defendant and third party, Earls Restaurant Ltd., was an employer engaged in an industry within the meaning of Part 1 of the Act;

(f) any action or conduct of the defendant and third party, Earls Restaurant Ltd., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act;

(g) the defendant and third party, Saltlik Steakhouse (Alberni) Ltd., was an employer engaged in an industry within the meaning of Part 1 of the Act;

(h) any action or conduct of the defendant and third party, Saltlik Steakhouse (Alberni) Ltd. or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act;

(i) the defendant and third party, Joey Tomato's (Canada) Inc., was an employer engaged in an industry within the meaning of Part 1 of the Act;

(j) any action or conduct of the defendant and third party, Joey Tomato's (Canada) Inc., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act;

(k) the defendant and third party, Burrard International Holdings Inc., was an employer engaged in an industry within the meaning of Part 1 of the Act;

(l) any action or conduct of the defendant and third party, Burrard International Holdings Inc., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act;

(m) GolfBC Holdings Inc., was an employer engaged in an industry within the meaning of Part 1 of the Act; and,

(n) any action or conduct of GolfBC Holdings Inc., or its servant or agent, which caused a breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the Act.

[117] As set out above, I have not determined the status of the defendants and third parties GolfBC Group Ltd. and Saltlik Restaurants Ltd. These parties were not registered as employers with the Board at the time of the plaintiff's accident on August 14, 2006. Evidence is lacking regarding whether these companies were employers who were required to be registered, whether on the basis that a director, shareholder or other principal of the company was active in the operation of the company and thus considered a worker, or on the basis that they had other workers. If determinations requiring the status of these parties remain necessary, it will be necessary to provide additional evidence and submissions and a supplemental certificate may then be provided on an expedited basis.

Herb Morton
Vice Chair

HM:gw

NO. S113600
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:

DAVID GEORGE ANTHONY

PLAINTIFF

AND:

DANIEL GEOFFREY GREEN, BURRARD INTERNATIONAL HOLDINGS INC., GOLFBC GROUP LTD., JOEY TOMATO'S (CANADA) INC., EARLS RESTAURANT LTD., SALTLIK RESTAURANTS LTD. and SALTLIK STEAKHOUSE (ALBERNI) LTD.

DEFENDANTS

AND:

BURRARD INTERNATIONAL HOLDINGS INC., GOLFBC GROUP LTD., JOEY TOMATO'S (CANADA) INC., EARLS RESTAURANT LTD., SALTLIK RESTAURANTS LTD. and SALTLIK STEAKHOUSE (ALBERNI) LTD.

THIRD PARTIES

C E R T I F I C A T E

UPON APPLICATION of the Defendants and Third Parties, JOEY TOMATO'S (CANADA) INC., EARLS RESTAURANT LTD., SALTLIK RESTAURANTS LTD. and SALTLIK STEAKHOUSE (ALBERNI) LTD., as well as by the Defendants and Third Parties, BURRARD INTERNATIONAL HOLDINGS INC. and GOLFBC GROUP LTD., 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, August 14, 2006:

1. The Plaintiff, DAVID GEORGE ANTHONY, was a worker within the meaning of Part 1 of the *Workers Compensation Act*.

2. The injuries suffered by the Plaintiff, DAVID GEORGE ANTHONY, arose out of and in the course of his employment within the scope of Part 1 of the *Workers Compensation Act*.

3. The Defendant, DANIEL GEOFFREY GREEN, was not a worker within the meaning of Part 1 of the *Workers Compensation Act*.

4. Any action or conduct of the Defendant, DANIEL GEOFFREY GREEN, which caused the alleged breach of duty of care, did not arise out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act.*

5. The Defendant and Third Party, EARLS RESTAURANT LTD., was an employer engaged in an industry within the meaning of Part 1 of the *Workers Compensation Act*.

6. Any action or conduct of the Defendant and Third Party, EARLS RESTAURANT LTD., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act*.

7. The Defendant and Third Party, SALTLIK STEAKHOUSE (ALBERNI) LTD., was an employer engaged in an industry within the meaning of Part 1 of the *Workers Compensation Act*.

8. Any action or conduct of the Defendant and Third Party, SALTLIK STEAKHOUSE (ALBERNI) LTD., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act*.

9. The Defendant and Third Party, JOEY TOMATO'S (CANADA) INC., was an employer engaged in an industry within the meaning of Part 1 of the *Workers Compensation Act*.

10. Any action or conduct of the Defendant and Third Party, JOEY TOMATO'S (CANADA) INC., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act*.

11. The Defendant and Third Party, BURRARD INTERNATIONAL HOLDINGS INC., was an employer engaged in an industry within the meaning of Part 1 of the *Workers Compensation Act*.

12. Any action or conduct of the Defendant and Third Party, BURRARD INTERNATIONAL HOLDINGS INC., or its servant or agent, which caused the alleged breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act*.

13. GOLFBC HOLDINGS INC. was an employer engaged in an industry within the meaning of Part 1 of the *Workers Compensation Act*.

14. Any action or conduct of GOLFBC HOLDINGS INC., or its servant or agent, which caused a breach of duty of care, arose out of and in the course of employment within the scope of Part 1 of the *Workers Compensation Act*.

CERTIFIED this day of May, 2011.

_____

Herb Morton
Vice Chair

NO. S113600
NEW WESTMINSTER REGISTRY

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

BETWEEN:

DAVID GEORGE ANTHONY

PLAINTIFF

AND:

DANIEL GEOFFREY GREEN, BURRARD INTERNATIONAL HOLDINGS INC., GOLFBC GROUP LTD., JOEY TOMATO'S (CANADA) INC., EARLS RESTAURANT LTD., SALTLIK RESTAURANTS LTD. and SALTLIK STEAKHOUSE (ALBERNI) LTD.

DEFENDANTS

AND:

BURRARD INTERNATIONAL HOLDINGS INC., GOLFBC GROUP LTD., JOEY TOMATO'S (CANADA) INC., EARLS RESTAURANT LTD., SALTLIK RESTAURANTS LTD. and SALTLIK STEAKHOUSE (ALBERNI) LTD.

THIRD PARTIES

SECTION 257 CERTIFICATE

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