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## New Jersey Workers Compensation Update: Week ending May 17, 2013

### Walesca Benvenuti v. Scholastic Bus Company

Decided April 4, 2013 WL 1337719

On April 4, 2013, the Appellate Division affirmed that petitioner's ankle injury arose out of and in the course of petitioner's employment while she exited the respondent's school bus at her home. Petitioner worked as a school bus driver for the respondent. Her duties included driving the children to school in the morning and driving them home from school in the afternoon. Petitioner was also paid additional money to clean the bus and was permitted to do so off premises. Moreover, petitioner was permitted to take her bus home after the morning run and then leave from her home for the afternoon run.

On June 9, 2010, petitioner parked her bus in front of her house after the morning run. She swept the bus and inspected the seatbelts prior to exiting the bus. Upon exiting, she tripped over a piece of rubber mat and fell, thereby sustaining an injury. The compensation judge found that petitioner sustained a compensable work-related injury while in the scope of her employment with the Respondent.

Respondent appealed asserting that petitioner's injury did not arise out of the scope and in the course of her employment because petitioner was injured when she exited respondent's school bus at her home and was not working for the respondent at the time of the incident.

The Appellate Division held that the evidence supported the judge's finding that petitioner was in the scope and course of her employment at the time of her injury. The Court noted that while petitioner was away from the employer's place of business, the key was that she was performing her job duties at the time of the injury. The bus sweeping was a vital part of petitioner's job throughout the day and she was compensated for it. Furthermore, Respondent also had knowledge and expressly allowed petitioner to take the bus home and clean it off premises.

### NJ Superior Court - Appellate Division Unpublished

Decided April 1, 2013 (A-0039-12T4)

In the case of *Johnson v. Hamilton Township* (App. Div. 2013) the Appellate Division affirmed the Judge of Workers' Compensation's ruling awarding petitioner medical and temporary benefits. While working for the respondent the petitioner was electrocuted. Petitioner was treated and placed of work by the authorized treating physician. The respondent sent petitioner for an IME and based on that doctor's opinion deauthorized treatment and cut off benefits. At trial the Judge of compensation ruled in favor of petitioner placing greater weight on the treating doctor's opinion than the IME doctor who spent about an hour with the petitioner. The Appellate Division reviewed this limiting its inquiry solely to whether the findings made by the Judge of Compensation could reasonably have been reached on sufficient credible evidence present in the record. The Court found the Judge of compensation to be the best suited to weighing the testimony of the medical experts. The Court deferred to the Judge of compensation finding that it was okay that the Judge relied more heavily on the treating doctor due to the fact that he had more involvement in petitioner's treatment and care. The Court further held that to reverse the Judge of compensation's findings of fact they must be "so wide off the mark as to be manifestly mistaken".