WCLA MCLE 8-8-18

- Some Rule 23's
- August 8, 2018
- 12:00 noon to 1 pm
- James R. Thompson Center Auditorium, Chicago, IL
- 1 hour general MCLE credit

John B. Sanfilippo v. IWCC
2018 IL App (2d) 170630WC-U

- App. Ct. affirms IWCC finding of repetitive trauma injury manifestation date
- 10-9-13: Petitioner janitor notices pain and seeks treatment form PCP giving HX of work-activities
- 10-23-13: supervisor acknowledges getting note from PCP, but unclear about report of injury
- 11-22-13: Petitioner goes to Physician's Immediate Care; HX "work-realted, gradual onset"
- 2-7-14: Dr. Levi
- 3-17-14: IME Dr. Bare: "aggravated existing problem;" then addendum no work-related injury;" deposed "possible…related to what she did at work"
- Dr. Cummins: Petitioner's IME
- Arbitrator awards prospective medical, IWCC affirms, Cir.Ct. confirms

John B. Sanfilippo v. IWCC
2018 IL App (2d) 170630WC-U

- Compensable injuries under the Act may arise from a single identifiable event or be caused gradually by repetitive trauma. Edward Hines .
- An employee who suffers a repetitive-trauma injury may apply for benefits under the Act, but must meet the same standard of proof as a claimant who alleges a single, definable accident. Durand.
- Date when the injury manifests itself—the date on which both the fact of the injury and the causal relationship of the injury to the claimant's employment would have become plainly apparent to a reasonable person.
- Though there is some conflicting evidence regarding the manifestation date, based on the above, the Commission could have reasonably concluded that claimant suffered a work-related injury that manifested itself on October 9, 2013

Campbell v. IWCC
2018 IL app (3d) 170725WC-U

- Appellate Court affirms IWCC denial of benefits for repetitive trauma
- Pick up & delivery truck driver; Driver Vehicle Reports; started noting pain in 2009
- 1-23-10: PCP Dr. Masood: “back & neck hurt from performing duties as truck driver”
- 2-19-10: felt sharp pain in back lifting door and told general manager who denied being told
- 3-15-10: picks up final check; terminal closing
- 4-27-10: Dr. Masood writes report “may have been caused by his duties
- 8-11-10; Dr. Lorenz, HX of hurting back on 2-19-10
- 5-8-12: IME Dr. Walsh, no causation to “patient’s work activity”
- Arbitrator says Petitioner did not sustain accidental injuries on “2-19-10”
- IWCC affirms & Cir. Ct. confirms

Campbell v. IWCC
2018 IL app (3d) 170725WC-U

- Did IWCC err as a matter of law by failing to consider the repetitive trauma claim?
- IWCC did not address the repetitive trauma claim actually pled by the claimant (which alleged February 19, 2010, as a *manifestation date*, not the date of a traumatic injury).
- Although the Commission's decision in this case primarily discusses the claimant's failure to prove a traumatic injury on February 19, 2010, it acknowledges that the claimant brought a claim for repetitive trauma and ***it appears to reject*** that claim as well
- IWCC ***implicitly found*** that the claimant had failed to prove a work-related accident under a repetitive trauma theory. Although the Commission erred by focusing its analysis primarily on a traumatic injury claim that was not raised by the claimant, its decision reflects that it also considered and rejected the claimant's repetitive trauma claim
- We may affirm the Commission's decision on any basis supported by the record regardless of the Commission's findings or its reasoning. In other words, ***we review the result reached by the Commission, not the Commission's reasoning***.

Major v. IWCC
2018 IL App (2d) 170925WC-U

- App. Ct. affirms IWCC finding NO jurisdiction: “principally localized”
- MN: contract of hire
- IA: injuries within the State
- Territory sales rep including IL, with home office in IL (30% of time , 2.5 days per week)
- Respondent insured at Petitioner’s home office address
- Petitioner argues the Commission’s finding that he failed to prove his employment was “principally localized” in Illinois and that, as a result, jurisdiction over his claim was lacking was against the manifest weight of the evidence

Major v. IWCC
2018 IL App (2d) 170925WC-U

- Principally localized focuses first, and foremost, upon the situs where the employment relationship is centered and "only in the event that such situs cannot be established is the alternative test involving domicile and substantial working time to be considered.
- "Situs" factors: (1) where the employment relationship is centered, *i.e.*, the center from which the employee works; (2) source of remuneration; (3) where employment contract was formed; (4) existence of a facility from which the employee received his assignments and is otherwise controlled; and (5) understanding that the employee will return to that facility after the out-of-state assignment is complete
- 2, 3 & 4 weigh in favor of MN, but 1 & 5?
- "We cannot say that employment became 'so clearly' fixed in IL such that MN lost its status as the situs of the employment relationship. Ultimately, the majority of factors weigh in favor of finding that employment relationship was centered in Minnesota"
- *Associates Corporation of NA v. Industrial Comm'n*, 167 Ill. App.3d 988 (1988)

Piechowicz v. IWCC
2018 IL App (1st) 171084WC-U

- App. Ct. affirms IWCC denial of benefits: “no accident”
- 12/23/13: Maintenance worker slips & falls on icy stairs; voice mail message for boss; ER visit; displaced wrist & rib fractures
- Phone records admitted into evidence; “cell phone location data”
- Eyewitness does not know where Petitioner fell
- Boss says no reason for Petitioner to be at work at time when he fell
- Arbitrator denies: “multiple versions” “inconsistent” “lacked credibility”

Piechowicz v. IWCC
2018 IL App (1st) 171084WC-U

- Manifest weight: Applying these standards, we cannot conclude that the Commission's finding that the claimant failed to prove that he sustained a work-related accident on December 24, 2013, is against the manifest weight of the evidence. The Commission, adopting the decision of the arbitrator, specifically found the claimant's testimony that he injured his right hand and ribs after he slipped and fell on icy stairs at work to be not credible
- Based on the claimant's phone records and the testimony of Ayres and Walczak, the Commission's finding that the claimant was not at Brittany Place when the accident allegedly occurred is supported by the evidence of record
- Having introduced the cell phone records in toto, and without objection or redaction, we do not see how the claimant can shield the cell phone location data, contained within the cell phone records, from consideration by the Commission. Anyway, harmless error
- Exclusion of photographs of scene: In our view, the claimant's testimony provided an adequate foundation because he has personal knowledge of the subject matter depicted in the photographs and testified that they are a fair and accurate representation of the subject matter at the relevant time. Id. Moreover, the photographs were relevant because they gave the Commission a basic visual sense of the area where the alleged accident occurred and corroborated the claimant's testimony…While we conclude that the Commission erred in refusing to admit the photographs, we consider the error to be harmless.