CODE NO: $3550
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JASON BUMA,

PETITIONER,

VS.

PROVIDENCE CORP. DEVELOPMENT dba MILLER HEIMAN, INC., GALLAGHER BASSETT SERVICES, INC., and THE DEPARTMENT OF ADMINISTRATION APPEALS DIVISION,

RESPONDENTS,
_____/

CASE NO:

DEPT NO:

PETITION FOR JUDICIAL REVIEW

COMES NOW, the widow of the deceased PETITIONER, JASON BUMA, by and through her counsel, Charles C. Diaz, Esq., of Diaz and Galt, LLC, and pursuant to NRS 233B.130, hereby files this PETITION FOR JUDICIAL REVIEW of the Decision issued by Appeals Officer Lorna L. Ward on February 7, 2017, a copy of which is attached hereto as Exhibit 1.

This petition is filed with the district court on the grounds that Petitioner is aggrieved by the decision of the Appeals Officer Lorna L. Ward, which was arbitrary and capricious and contrary to the substantial evidence presented in this case.

Further, the Appeals Officer Lorna L. Ward committed an error of law in rendering this decision. The decision of Appeals Officer Lorna L. Ward was an abuse of discretion and clearly erroneous as matter of law.

WHEREFORE, Petitioner prays as follows:

1. That an order be granted herein for Judicial Review of the Decision filed by Appeals Officer Lorna L. Ward, in this matter on February 7, 2017.

2. That pursuant to Nevada Arbitration Rules, 3A and 5A, this proceeding be exempted from arbitration since it is a Petition for Judicial Review of an Administrative Order..

3. That an order be granted, after such review reversing Appeals Officer Lorna L. Ward's decision;

4. Pursuant to NRS 233B. 133(4), an oral hearing is requested in this matter;

5. For such other and further relief as the court deems just and proper.

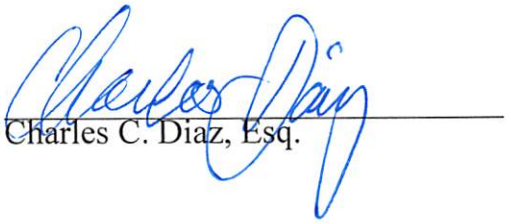
DATED this 27th day of February, 2017.

Charles C. Diaz
Nevada Bar No. 3349
443 Marsh Avenue
Reno, NV 89509
775.324.6443
Attorney for Petitioner

AFFIRMATION

I certify that this document does not contain the social security number of any person.

DATED this 27th day of February, 2017.



Charles C. Diaz, Esq.

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DEPT. OF ADMINISTRATION
APPEALS OFFICER

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of JASON BUMA (DECEASED) c/o THE ESTATE OF JASON BUMA 1951 ROLLING BROOK LANE RENO, NV 89519, Claimant.	Claim No.: E2C12430 Hearing No.: 53765-SA Appeal No.: 54752-LLW Employer: PROVIDENCE CORP. DEVELOPMENT dba MILLER HEIMAN, INC. 10509 PROFESSIONAL CIRCLE RENO, NV 89521

DECISION AND ORDER

The above-captioned appeal came on for hearing before Appeals Officer LORNA L. WARD, ESQ. The surviving spouse ("Mrs. Buma") of Claimant, JASON BUMA ("Claimant"), was represented by CHARLES DIAZ, ESQ., of DIAZ & GALT. Third-Party Administrator, GALLAGHER BASSETT, on behalf of CNA CLAIMPLUS ("Administrator"), and the Employer, PROVIDENCE CORP. DEVELOPMENT, dba MILLER HEIMAN, INC. were represented by LEE E. DAVIS, ESQ., of LEWIS BRISBOIS BISGAARD & SMITH LLP.

On June 25, 2015, Mrs. Buma was sent a determination advising her of the denial of Claimant's claim. Mrs. Buma appealed the determination to the Hearing Officer. The Hearing Officer issued a Decision and Order on October 23, 2015 affirming claim denial. Mrs. Buma appealed that decision to the Appeals Officer.

At the time of the hearing, the argument that was made on behalf of the Claimant and his wife ("Claimant") that his death was covered as a compensable workers' compensation claim pursuant to NRS 616C.150. The Claimant argued that the accident which caused the Claimant's death was as a direct relationship to his employment as the Claimant was staying at his friend's home so that the two could prepare for the presentation that the Claimant was to participate for his Employer the next day. The Claimant argued that the act of driving the recreational vehicle was closely associated with the act of preparing for the presentation that the

Claimant was required to attend for his work.

The Administrator on behalf of the Employer argued that the Claimant was not covered under the workers' compensation act at the time of the Claimant's death since: (a) the Claimant died as a result of a recreational activity that was not authorized nor required by his Employer; and (b) the Claimant's death occurred before the Claimant was appearing for the presentation for his Employer and that the Coming and Going Rule would preclude the Claimant's death as being covered under workers' compensation.

After reviewing the documentary evidence, hearing the testimony of witnesses, and considering the arguments of counsel, the Appeals Officer finds and decides as follows:

I.

FINDINGS OF FACT

1. The deceased Claimant met his unfortunate demise on March 29, 2015, as the result of an ATV accident at a co-worker's house where he was visiting prior to a company meeting in Houston, Texas, the next day. (Exhibit "1" at p. 1.)

2. The deceased Claimant was employed for Miller Heiman, Inc., as a Vice President of Sales. He did not have any ownership interest in this company or its parent company.

3. The Claimant planned to meet with his client at an Oil and Gas Convention in Houston Texas on March 30, 2015. The Claimant made his own travel arrangements and chose the location of his lodging. The Claimant would either be reimbursed by the Employer or the Employer had provided to the Claimant a corporate credit card to use.

4. The day before the Convention, the Claimant stayed with his friend, Michael O'Callaghan, at his home. The Claimant had stayed with him on a couple of previous occasions.

5. Mr. O'Callaghan was not an employee of Miller Heiman, Inc., and was the owner of his own company. Mr. O'Callaghan was an independent consultant who would work with Miller Heiman, Inc.

6. On March 29, 2015, Claimant died as the result of an ATV accident at Mr. O'Callaghan's property. "ATV" is defined as an "all terrain vehicle", also known as quad, quad

bike, three-wheeler, four-wheeler or quadricycle. Miller Heiman, Inc., did not own or provide the ATV to the Claimant to use and had no connection to the ATV incident.

7. On May 11, 2015, legal counsel for Mrs. Buma and the Buma's daughter sent a letter of representation to the Third-Party Administrator seeking death benefits. The letter enclosed a copy of the Claimant's Death Certificate, Claimant and Mrs. Buma's Marriage Certificate, and a Texas Peace Officer's Crash Report, as well as emergency service reports. (Exhibit "1" at pp. 2-18.)

8. On June 8, 2015, in response to questions from the adjuster, the Employer noted that: (1) there were no company events on March 29, 2015, at the location where Claimant's accident occurred; (2) Claimant was not required to ride the ATV for work purposes; and (3) Claimant was not required to meet with clients until March 30, 2015 at 8:30 a.m. and 9:30 a.m. (Exhibit "1" at pp. 19-21.)

9. A claim denial determination was issued on June 25, 2015. (Exhibit "1" at pp. 22-23.)

10. An Acknowledgement Letter was sent by the adjuster to the Claimant's estate which asked that any medical bills be sent to her attention. (Exhibit "1" at p. 24.)

11. Further investigation took place at the location of the unfortunate accident on June 30, 2015. The property was owned by Claimant's co-worker, Mr. O'Callaghan. Mr. O'Callaghan provided the ATV used by Claimant. Mr. O'Callaghan verified that Claimant was riding the ATV at Claimant's request for recreational purposes only, with no related work purpose. A recorded statement of Mr. O'Callaghan again corroborated the recreational, purely personal purpose of the ATV ride. (Exhibit "1" at pp. 25-46.)

12. Mrs. Buma filed an appeal of the June 25, 2015, claim denial on August 13, 2015. (Exhibit "1" at p. 47.)

13. The Hearing Officer issued a Decision and Order on October 23, 2015 affirming claim denial. (Exhibit "1" at pp. 48-50.)

14. Mrs. Buma appealed that decision to the Appeals Officer to generate the instant appeal.

15. This hearing followed.

16. Miller Heiman, Inc., is in the business of providing Sales Training. The Employer's website is titled, "The Sales Performance Company" and explains its comprehensive strategy for complex sales as:

> Strategic Selling® helps organizations develop comprehensive strategies to win sales opportunities. The program delivers a selling process and action plan to successfully sell solutions that require approval from multiple decision makers in the customer's organization.
>
> Strategic Selling® provides visibility into sales opportunities, documenting plans with the program's Blue Sheet. This involves first identifying all key players in the customer's organization, understanding each player's degree of influence and their reasons for buying, and uncovering essential information. Salespeople and organizations will be equipped to evaluate their competitive position, address the business and personal motives of each decision maker in the client organization, and differentiate their company by leveraging its unique strengths.

17. At the time of the hearing Ms. Buma testified that Mr. Buma planned to meet with his client at an Oil and Gas Convention in Houston Texas on March 30, 2015. Mr. Buma made his own travel arraignments and chose the location of his lodging. Mr. Buma would either be reimbursed by the Employer or the Employer had provided to the Claimant a corporate credit card to use. Ms. Buma further testified that the day before the Convention her husband ("the Claimant") stayed with his friend, Mr. O'Callaghan at his home. Mr. Buma had stayed with him on a couple of times before. Mr. O'Callaghan was not an employee of MILLER HEIMAN, INC and was the owner of his own company. Mr. O'Callaghan was an independent consultant that would work with MILLER HEIMAN, INC .

18. The parties presented their closing arguments first orally and then in writing. At the time of the hearing the Claimant argued that his death was covered as a compensable workers compensation claim pursuant to NRS616C.150. The Claimant argued that the accident which caused the Claimant's death was as a direct relationship to his employment as the Claimant was staying at his friends home so that the two could be preparing for the presentation that the Claimant was to participate for his Employer the next day. The Claimant argued that the act of driving the recreational vehicle was closely associated with the act of preparing for the

presentation that the Claimant was required to attend for his work.

The Administrator argued that the Claimant was not covered under the workers compensation act at the time of the Claimant's death since the (a) Claimant died as a result of a recreational activity that was not authorized or required by his Employer, and (b) the Claimant's death occurred before the Claimant was presenting for the presentation for his Employer and that the Coming and Going Rule would preclude the Claimant's death as being covered under workers compensation. The Administrator further argued that the very activity that caused the unfortunate death of Mr. Buma did not "arise out of " Mr. Buma's employment.

II.

CONCLUSIONS OF LAW

1. The Workers Compensation Act was written into law in Nevada to provide employees a means to receive medical care and benefits without the Employee being required to prove in a civil or tort action that established that the Employee had either intentionally or through the Employer's negligence caused the harm to their Employee.

However the Nevada Workers Compensation Act requires that the Employee ("Claimant") must establish that the injury was connected to his or her employment. The Nevada Supreme Court has held that the fact that the injury occurred on the employer's premise is not sufficient to make an injury a compensable claim.

The Court in Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 605, 939 P.2d 1043 (1997) held that the "Nevada Industrial Insurance Act is not a mechanism which makes administrators absolutely liable for injuries suffered by employees who are on the job." The Court concluded by stating, "The requirements of 'arising out of and in the course of employment' make it clear that a claimant must establish more than being at work and suffering an injury in order to recover."

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2. The Nevada Workers Compensation Act has placed the burden on the Claimant to establish this connection. It is the Claimant, not the Administrator, who has the burden of proving his case, and that is by a preponderance of all the evidence. State Indus. Ins. Sys. v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Johnson v. State ex rel. Wyoming Worker's Comp. Div., 798 P.2d 323 (1990); Hagler v. Micron Technology, Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove his case, the Claimant has the burden of going beyond speculation and conjecture. That means that the Claimant must establish the work connection of his injuries, the causal relationship between the work-related injury and his disability, the extent of his disability, and all facets of the claim by a preponderance of all of the evidence. To prevail, a claimant must present and prove more evidence than an amount which would make his case and his opponent's "evenly balanced." Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993); SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218 (1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, The Law of Workmen's Compensation, §80.33(a).

NRS 616A.010 makes it clear that:

> A claim for compensation filed pursuant to the provisions of this chapter or chapter 617 of NRS must be decided on its merits and not according to the principle of common law that requires statutes governing worker's compensation to be liberally construed because they are remedial in nature.

The evidence supported the Administrator's claim denial determination.

3. NRS 616B.612(1) requires an employer to provide compensation in accordance with the terms of the Nevada Industrial Insurance Act[4] for any employee injuries "arising out of and in the course of the employment." NRS 616C.150(1) provides that an injured employee is not entitled to receive workers' compensation unless he establishes by a preponderance of the evidence that his injury arose out of and in the course of his employment.

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Our Nevada Supreme Court has held that an Employer is not liable for all injuries that an employee may sustain while employed.

> We previously have explained that the language of the statute reveals that legislators did not intend the Nevada Industrial Insurance Act to make employers absolutely liable for any injury that might happen while an employee was working. Rather, the statute requires a claimant to "establish more than merely being at work and suffering an injury in order to recover. MGM Mirage v Cotton 121 Nev. Adv. Op 39 (2005)

Injury on Employer's property

If the accident occurs on the Employer's property the Nevada Supreme Court has held that an accident within a reasonable time period before and after the work time is covered as a work injury. MGM Mirage v Cotton 121 Nev. Adv. Op 39 (2005)

> In this appeal, we consider whether an employee, who suffers an injury connected to the work environment and on the employer's premises while arriving to or departing from work, is eligible for workers' compensation benefits. Generally, under the "going and coming" rule, employees are not entitled to workers' compensation for injuries sustained while traveling to or from work. We now adopt a premises-related exception to the " going and coming" rule. Thus, we hold that an employee who is injured on the employer's premises within a reasonable interval before or after work may be eligible for workers' compensation.

However in this case the Claimant was not injured on the Employer's premise or within a reasonable time period before or after the employee's employment . In this case the Claimant died while he was riding a recreational vehicle that was not owned, maintained by the Employer.

The first issue to be looked at is where is the location of the accident that caused the Claimant's death? The accident did not occur on the premise of the Employer. That is not in dispute by any of the parties. The Claimant's employment did require him to travel out of state to attend a sales presentation the day after the Claimant's accident and death.

Coming and Going Rule

This issue is covered by case law under what is commonly known as the "Coming and Going Rule". This rule holds that workers' compensation was not intended to protect against perils coming to and/or leaving work. There are, however, exceptions to that rule.

If an injury occurs off the employer's premises, it is typically not considered compensable, subject to several exceptions. The underlying principle of these exceptions is that the "course of employment" should extend to any injury which occurred at a point where the employee was within range of dangers associated with his employment.

Benefit to Employer

One exception to the Coming and Going Rule is referred to as the Employer's Conveyance exception,. This general rule is that when the journey to or from work is made in the employer's conveyance, the journey is in the course of employment. Examples of this rule is usually seen where the Employee is using the Company's vehicle or that the Employer pays for the Claimant's use of his own vehicle.

The reason for this exception is that the Claimant is placed at risks of the employment, since the risk are under the employer's control. Courts look at factors such as (a) does the Claimant drive a company vehicle, (b) does the Employer pay for the Claimant's gas or mileage if the Claimant drives his own vehicle, (c) is the Claimant on call. The Court would look at the nature of the employment and the type of business as factors in determining if the Claimant was on call, or (d) does the Claimant's act of driving provide to the Employer a benefit.

In Evans v. Southwest Gas Corp., 108 Nev. 1002, 842 P.2d 719 (1992), the Supreme Court held an employee may still be within the course and scope of his employment when the travel to or from work confers a **distinct benefit** upon the employer or the employer exercised significant control over the employee, who was on call. The claimant going shopping and to dinner did not confer any benefits whatsoever upon the Employer.

In Evans v. Southwest Gas, the employee was provided a hand held radio and a radio in his van. 108 Nev. 1002 (1992). The employee was allowed to take the van home in order to respond to emergencies. He would be notified of those emergencies via the radio or the hand held radio. The employee was required to take the van home to respond to emergencies.

Likewise, in Tighe v. Las Vegas Metropolitan Police Dept., 110 Nev. 632, 877 P.2d. 1032 (1994), the Court found that an undercover narcotics officer who was driving home and subject to his employer's control at the time of the accident, was entitled to worker's

compensation benefits. The Tighe Court created the "law enforcement" exception.

The Tighe Court further explained the Nevada position on this issue. 110 Nev. 632 (1994). The Court held that exceptions to the going and coming rule include Evans and Tighe because the employee was "subject to his employer's control" and was driving the employer's vehicle. The key to both of these cases is control. Evans mentions the two forms of radios and Tighe cites to the employee's car radio and beeper. The Court even stated that since Tighe was driving a police vehicle equipped with a police radio, he was "on call". Id. at 636. Interestingly, the Court also held that "Tighe made no diversion for personal purposes, nor can we reweigh the evidence". Id.

In this case the Employer had no control over where the Claimant stayed at or when he arrived. The only requirement was that he was present at the Oil and Gas Convention in Houston Texas on March 30.

A more recent Nevada Supreme Court case that looked at this issue is Bob Allyn Masonry v Murphy 124 Nev. Adv. Op. No 27 (2008). In this case the Court looked at a Claimant that was injured while departing from the job site. The Court held that the Claimant's injuries should be covered as a workers compensation claim.

The Court held:

> On his day off, respondent David Murphy, at his employer's request, delivered equipment from his employer's construction yard to his employer's job site. After departing from the job site, he was injured in an automobile accident. In this opinion, we consider whether the injuries of an employee who, like Murphy, is involved in a vehicular accident while on the return journey of a special errand undertaken at the employer's request, arise out of and in the course of employment, entitling the employee to workers' compensation benefits. In so doing, we adopt the street-risk rule, which provides that, when an employee is required to drive as a component of employment, the risks and hazards associated with the roadways are incident to that employment, and thus injuries sustained due to risks associated with those roadways arise out of the employment. We also clarify that our workers' compensation jurisprudence includes an employee's return journey within the special errand exception to the going and coming rule, which provides that, even though going

> and coming from work generally is not in the course of employment, an employee is acting within the course of employment when completing a "special errand" for the employer. Thus, depending upon the facts, an employee's injuries sustained in a vehicular accident during the return journey of a special errand may arise out of and in the course of employment

In the case before this Bar the Claimant was not performing a special errand for the Employer at the time of his death while operating an ATV. Additionally the accident was not on public roads but on his friend's property.

Preparation for Employment

The Claimant has argued that the Claimant was staying at his friends ranch to benefit the Claimant's employment because it allowed the Claimant an opportunity to prepare with his friend and fellow participant for the next day presentation which benefited the Claimant's employer's interest.

The Nevada Supreme Court looked at a case where an employee was injured while preparing the area for him to stay while he perform his job duties for his Employer the next day. Costley v NIC 53 Nev. 219, 296 Pac. 1011 (1931) The Nevada Supreme Court held that a miner hurt while setting up his tent on Employer's premise day before he was to start work was incidental to employment. The difference with this case and Costley is Buma's accident did not occur on the Employer's premise or the act of performing a recreational activity while riding the vehicle did not constitute preparing for the presentation for the next day. The act that caused the Claimant's death was operating a recreational vehicle and not conversing with his friend in the preparation of the next day event. It was purely a personal activity with no benefit to his Employer.

Moreover operating the ATV was not a requirement of the Claimant's employment nor did the Claimant's death arise out of a hazard arising from or incidental to the Claimant's employment. Finally the Claimant's Employer did not own, maintain or provide the recreational vehicle to the Claimant.

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Employer reimburses for Employee's travel

The Claimant next argues that his travel is paid for by his Employer. Therefore the Claimant would be covered under the Nevada Workers Compensation Act during the entire time period that the Claimant traveled for his Employer and until he reaches back at his home.

However the Claimant chose to stay at his friend's ranch home and the Employer did not require the Claimant to stay over at the ranch home rather than a hotel. The Claimant's decision where to stay was the Claimant's own discretion and the Employer had no input.

The Claimant cannot prove that the Employer had any control over the Claimant's actions or behavior while the Claimant stayed with his friend.

Therefore the Claimant's accident did not occur while the Claimant was performing a job duty and was not during an act that the Claimant was performing that would constitute performing a job duty during the course and scope of employment. The Claimant's claim should be denied under this analysis.

4. The Claimant met his unfortunate demise during a purely recreational ATV ride at a friend's home. There was no company event held at the location of the accident on March 29, 2015, and there was no requirement that Claimant ride the ATV as part of his work responsibilities. His next scheduled work activities were the next day at 8:30 a.m. and 9:30 a.m.

In Nevada, the Supreme Court has defined the term "arose out of," as contained in NRS 616C.150, to mean that there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work . . . the injured employee must establish a link between the workplace conditions and how those conditions caused the injury . . . a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600 (1997).

The origin of the unfortunate fatal ATV riding accident had no associated industrial

risk or hazard arising out of the course and scope of the employment of Claimant.

Recreational activity

The Claimant will next argue that the use of the ATV was a recreational event and benefited the Employer. The Nevada Supreme Court held in Nevada Industrial Commn v Dixon 77 Nev. 296, 362 P.2nd 577 (1961) that an employee injured while riding a bike that was provided by the Employer on her lunch break was covered under workers compensation because the Employer "encouraged" and it was a regular incident of employment.

The case before this Bar is distinguishable. In the case before this Bar the Employer did not provide to the Claimant the ATV nor did they encourage it. It simply was not a regular incident of employment.

Exercise

The Claimant may then argue that a recreational activity helped the Claimant relax which would benefit his Employer's interest since the Claimant would perform better the next day after he was fully relaxed.

The Nevada Supreme Court has looked at the issue of an employee voluntarily exercising to improve the employees health and whether that activity has a benefit to the Employer.

The Nevada Supreme Court held in Washoe County v Hunt 109 Nev. 823, 858 P. 2nd 46 (1993) that a police officer jogging on his own time was not covered as a work related injury.

The Appeals Officer finds that none of the cases cited by the Claimant can be stretched to include the ATV ride as work related. The ATV ride neither occurred in the course of nor arose out of his employment. The Larson's "traveling employee" doctrine does not apply to the specific facts of this case. The ATV ride was clearly "a distinct departure on a personal errand." The risks associated with an ATV ride were not "associated with the necessity of eating, sleeping, and ministering to personal needs away from home." Nor was Claimant "subjected to hazards he would otherwise have the option of avoiding." Claimant was not under his employer's control while at his friend's ranch, nor was the ATV ride prior to dinner "a reasonable activity

designed for personal comfort, such as stretching or using the restroom." The ATV ride was an unreasonable or extraordinary deviation. Even if it could be said that the ATV ride occurred in the course of his employment, it fails to meet the requirements outlined in Phillips.

The Claimant relies on a misinterpretation of the Phillips case to bolster his argument that the ATV ride arose out of his employment. Phillips explains that the first step is to determine the type of risk faced by the employee. There are three types of risks: solely employment related, purely personal and those that are neutral.

The ATV ride is clearly not an employment related risk and therefore either the ride is purely personal (and therefore not work related) or a neutral risk. If a neutral risk, the Nevada Supreme Court has opined that it must be evaluated under the "increased risk test."

"Under the increased risk test, an employee may recover if she is exposed to a risk greater than that to which the general public is exposed." Phillips 126 Nev. Adv. Op. No. 34, page 10. Claimant was not exposed to greater risk that the general public during an ATV ride. The question is not whether an ATV ride is inherently dangerous, but rather was the ATV ride riskier for Claimant than the general public involved in the same activity.

In the case before this Bar the Claimant cannot establish a connection between the Claimant's use of a recreational vehicle and his employment. There simply is no connection or benefit to the Employer from the Claimant's use of an ATV.

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III.

DECISION AND ORDER

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Claimant has failed to meet his burden in establishing entitlement to a compensable claim.

IT IS FURTHER ORDERED that the October 23, 2015 Hearing Officer's Decision and Order that affirmed the Administrator's determination dated June 25, 2015, informing Mrs. Buma that Claimant's claim was denied, is AFFIRMED.

DATED this 7th day of ~~January~~ February, 2017.

APPEALS OFFICER

LORNA L. WARD, ESQ.

Submitted by,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____
LEE E. DAVIS, ESQ.
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Attorneys for the Administrator

NOTICE: Pursuant to NRS 616C.370, should any party desire to appeal this final decision of the Appeals Officer, a Petition for Judicial Review must be filed with the District Court within thirty (30) days after service of this Order.

CERTIFICATE OF MAILING

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Carson City, Nevada, to the following:

JASON BUMA
C/O THE ESTATE OF JASON BUMA
1951 ROLLING BROOK LANE
RENO, NV 89519-8342

CHARLES C DIAZ, ESQ.
443 MARSH AVE
RENO NV 89509

PROVIDENCE CORP DEVELOPMENT
DBA MILLER HEIMAN INC
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PO BOX 400970
LAS VEGAS, NV 89140-0970

LEE DAVIS ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 7th day of February, 2017.

Kristi Fraser, Legal Secretary II
Employee of the State of Nevada

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I HEREBY CERTIFY I am an employee of Diaz & Galt, LLC, and that on this date, I served a true and correct copy of the within **PETITION FOR JUDICIAL REVIEW** via U.S. Mail at Reno, Nevada, facsimile, or hand-delivery by Bootleg Courier Messenger Service, as indicated, to the following:

Nevada Department of Administration [VIA MESSENGER]
Appeals Division
1050 E. William Street, Suite 450,
Carson City, NV 89701

Lee E. Davis, Esq. [VIA U.S. MAIL]
Lewis, Brisbois, Bisgaard, & Smith, LLP.
2300 W. Sahara Avenue, Ste. 300, Box 28,
Las Vegas, NV 89102

Mrs. Kayceann Buma [VIA U.S. MAIL]
1951 Rolling Brook Lane
Reno, NV 89519

Providence Corp. Development [VIA U.S. MAIL]
dba Miller Heiman, Inc.
10509 Professional Circle
Reno, NV 89521

Gallagher Bassett Services, Inc. [VIA U.S. MAIL]
P.O. Box 400970
Las Vegas, NV 89140

DATED this day 27th of February, 2017

Lila Salinas