JANUARY 2026

HEYL ROYSTER

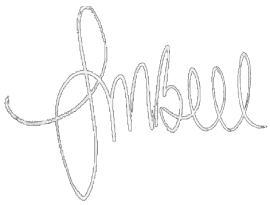
BELOW THE RED LINE

WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"

A WORD FROM THE PRACTICE GROUP CHAIR

As the first month of 2026 comes to a close, I hope you all have had a great start to the year! We're excited to kick off another year of our monthly newsletter, and with the new year, we have a few changes. After several years, Amber Cameron is officially passing the title of Newsletter Editor to Jenna Kobernus! We thank Amber for all her hard work over the years and look forward to continuing the quality newsletters under Jenna's leadership. This year, we're introducing a new section to our newsletter with Team Spotlight. Every month, we'll spend a little time introducing you to one (or two) members of our workers' compensation team on a more personal level. We're kicking the year off with Spotlights from both our outgoing editor, Amber, and incoming editor Jenna.

This month's newsletter, appropriately in light of the recent weather, touches on a variety of issues involving slip and falls, particularly in parking lots. Our author, Leah Nolan, examines the parking lot exception and what constitutes a "hazard" in that analysis. Read on for Leah's analysis of relevant case law on the issue, and her advice to employers dealing with these types of claims.



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JENNA KOBERNUS



FEATURED AUTHOR
LEAH NOLAN



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How to Prepare for Factual Disputes in Slip and Fall Claims Where a Hazard is Contested

By Leah Nolan



When a decision is made by a party to appeal an Arbitration decision, the Workers' Compensation Commission must review the findings of the Arbitrator *de novo*. *De novo* review means that the Commission is free to perform its own assessment of the facts in relation to the issues of the case without deference to the Arbitrator's conclusions. *People v. Avdic,* 2023 IL App (1st) 210848. While *de novo* review presents a unique opportunity for respondents to argue their case and convince the Workers' Compensation Commission to accept their framing of the facts for a different outcome, relitigating factual disputes can be challenging where evidence is not properly preserved at the outset of the claim. This is particularly true in slip and fall cases where petitioners seek to invoke the "parking lot exception," and the existence of a hazardous condition is disputed.

In recent months, Heyl Royster has observed numerous innovative approaches by petitioners seeking to expand the parking-lot exception when the existence of a hazard is contested. For example, in a recent matter appealed to the Commission, the Commission affirmed the Arbitrator's findings that Petitioner "slipped" on a ramp where "granules" were present in public space owned by Respondent. In this recent matter, there was no inclement weather and no mention of "granules" in the Petitioner's First Report of Injury. Further, immediately following the injury, the only photos of the scene taken were dark and in black and white.

In any workers' compensation case, the injury must "arise out of" and occur "in the course of employment." 820 ILCS 305/1(d). To arise out of employment, the Petitioner must show that the injury originated from a risk connected with

or incidental to employment. An injury occurs in the course of employment when it is sustained on an employer's premises, at a place where the Petitioner reasonably performs his or her work duties, or within a reasonable time before or after work. *Johnson v. Illinois Workers' Comp. Comm'n,* 2011 IL App (2d) 100418WC, ¶ 21.

Generally, Illinois recognizes three categories of risk associated with workers' compesation claims.

1. Risks Distinctly Associated with Employment



The first category includes risks that are distinctly associated with employment. *Illinois Inst. of Tech. Research Inst. v. Indus. Comm'n*, 314 Ill. App. 3d 149, 162, (1st Dist. 2000). In slip and fall cases, courts have held that tripping on a defect at the employer's premises, falling on uneven or slippery surfaces at the work site, or performing some work-related task that contributes to the risk of falling are included in this category of risks. *First Cash Fin. Services v. Indus. Comm'n,* 367 Ill.App.3d 102, 106, (1st Dist. 2006).

This category also includes falls in a parking lot under the employer's control. *Vill v. Indus. Comm'n,* 351 Ill.App.3d 798, 803, (1st Dist. 2004). Even if the employer does not own the parking lot, hazards within the lot may still be considered part of the employment if the lot is controlled by the employer or required for employee use. *Litchfield Healthcare Center v. Indus. Comm'n,* 349 Ill.App.3d 486, 491, (5th Dist. 2004).

In parking lot cases, the courts typically consider whether:

(1) the lot is owned by the employer;
(2) the lot is controlled by the employer; or
(3) the employee is required to use the lot by the employer.

Maxim's of Illinois, Inc. v. Indus. Comm'n, 35 Ill.2d 601, 604, (1966).

2. Risks Personal to the Employee

The second category includes risks personal to the employee, such as non-occupational diseases, injuries caused by personal infirmities, and injuries caused by personal enemies. For example, a fall caused by a seizure or chronic knee condition—or an injury intentionally caused by a personal enemy—typically does not arise out of employment and is therefore not compensable under the Act. *Illinois Inst. of Tech. Research Inst.*, 314 Ill. App. 3d at 162-63.

However, personal risks may be found to arise out of employment where workplace conditions significantly contribute to the injury or expose the employee to an added or increased risk of injury. *Rodin v. Indus. Comm'n,* 316

Ill. App.3d 1224, 1229, (1st Dist. 2000). In the examples above, a personal risk may still arise out of employment if an employee with a seizure disorder collapses and is injured after falling in a cluttered workspace, or if an employee with a preexisting knee condition is required to repeatedly use stairs as part of their job, thereby increasing their risk of injury beyond that faced by the general public.

3. Neutral Risks

The third category consists of neutral risks – those with no employment or personal characteristics. *Illinois Consol. Telephone Co. v. Indus. Comm'n,* 314 Ill.App.3d 347, 353, (5th Dist. 2000). Injuries resulting from neutral risks can be compensable when the employee is exposed to a greater risk than that of the general population. *Springfield Urban League v. Illinois Workers' Comp. Comm'n,* 2013 IL App (4th) 120219WC, ¶ 27.

Some examples of neutral risks that may be compensable under the Act include an unexplained fall by an employee who is put at a greater risk due to working at heights, a slip on ice but the employee's job requires frequent exposure to these conditions beyond what the general public faces, or being struck by a falling object but the work environment increased the likelihood of this injury occurring.

Expanding the Parking Lot Exception

In examining whether a hazard is present in a slip and fall claim, courts specifically look to whether the hazard is present in an area that is the "usual access route" to the employer's premises. *Id.* ¶ 30. For example, in *Springfield Urban League,* an employee was required to attend an off-site meeting for work and tripped while exiting the building on a bunched up rug in the entrance *Id.* ¶ 28*. Although there was* a factual dispute regarding whether the mat was indeed bunched up, both the Arbitrator and the Commission found the mat was "bunched up," and the Petitioner suffered a compensable injury. *Id.*



On appeal, the Defendant argued that walking on an entrance mat was a risk inherent to the general public. *Id.* ¶ 29. The appellate court rejected this argument, holding that because the injury occurred along the Petitioner's "usual access route" to her employment, the hazard posed by the mat was a sufficient connection to her employment. *Id.* ¶ 30. Although this incident did not occur in a parking lot, the court effectively extended the "parking lot exception" and applied it to Petitioner's exit of the building.

Similarly, in the *Village of Villa Park,* the appellate court found that a Petitioner who fell down the stairs at his place of employment after his knee gave out had sustained a compensable accident, despite a prior unrelated knee injury. *Village of Villa Park v. Illinois Workers' Comp. Comm'n,* 2013 IL App (2d) 130038WC, ¶ 21. The Commission emphasized that the Petitioner used the stairs multiple times a day for work and that his need to repeatedly use the stairs exposed him to a greater risk of injury than the general public. *Id.* This case illustrates that even with a preexisting condition and lack of a defective condition on the employer's premises, a compensable accident may occur when an employee's work requires exposure to a risk more frequently than the general public.



Practical Steps for Employers

So, what proactive steps can employers take at the outset of an injury to better protect themselves?

- Photograph the scene. Employers should meticulously photograph the scene of the occurrence as close in time as possible to demonstrate the condition .
- Obtain a signed or recorded statement. Employers should obtain a statement from the employee as soon as practical about what led to the injury.
- Document frequency and the purpose of use of the area. Record details about the location of the fall, such as whether alternative routes were available, the role the area plays in the employee's duties, and the frequency of its use. This information can be crucial in demonstrating a non-compensable neutral risk.
- Ensure entrances and walkways are properly maintained. Employers should also take care to ensure that their employees are entering and exiting the building with minimal hazards and that the areas are properly maintained. This is true even where the employer does not own the parking lot or areas where the employee is exiting or entering the building.

Early documentation and careful investigation can be critical in defending against expanded applications of the parking lot exception.

If you have questions about how best to protect your business or client in slip-and-fall cases, do not hesitate to reach out to one of Heyl Royster's knowledgeable and experienced workers' compensation attorneys.

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PRACTICES

Casualty & Tort
Construction
Medical Malpractice
Product Liability
Professional Liability
Toxic Torts & Asbestos
Workers' Compensation

Leah brings her leadership skills, creative drive, and a keen eye for detail to her law practice.

Leah won her first case before she stepped foot into law school. After a foray into the courtroom as a pro se litigant, she knew she wanted to be an attorney. Loving the challenge of complex litigation, she has focused her practice on medical & legal malpractice, casualty/tort litigation, premises liability, Section 1983, toxic tort, and nursing home litigation. Less than one year into her practice, she second-chaired a trial in a medical malpractice case. She successfully defended a pain management doctor against a $2.5 million medical malpractice verdict, receiving a favorable outcome. Before entering the legal world, Leah spent six years working as a content editor, brainstorming and implementing creative digital design solutions for the world's first online luxury consignment brand. Leah brings her leadership skills, creative drive, and a keen eye for detail to law practice. Leah handles all aspects of defense litigation and has appeared in court to argue numerous complex motions and other matters.

She excelled at Northern Illinois College of Law and graduated *summa cum laude*, ranked second in her class. While in school, she won numerous awards for her written and oral advocacy skills and counseling and leadership abilities. As someone who is never afraid to be the first to try something new, Leah worked as the first-ever in-house law clerk at the Animal Legal Defense Fund before joining Heyl Royster as a Summer Associate in 2020. In her free time, she enjoys dining out and spending time with her husband and dog.

LEARN MORE ABOUT LEAH'S ACCOMPLISHMENTS HERE.



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Team Spotlight

HEYL ROYSTER

Passing the Pen: Celebrating Amber Cameron's Editorial Legacy

Amber Cameron has been the driving force behind our Workers' Compensation newsletter, serving as its dedicated editor and infusing every issue with her insight, expertise, and signature enthusiasm. As she passes the editorial torch, we want to celebrate her outstanding contributions—not just as a leader in our Edwardsville and St. Louis offices, but as part of the creative engine behind this publication.

Amber's impact goes far beyond the page. As a Partner, she's known for tackling complex claims with innovative strategies and always putting client service first. Her colleagues value her mentorship, her legal acumen, and the infectious energy she brings to every project.

Outside the office, Amber loves planning travel to explore new destinations and try local foodie spots—embracing the challenges and problem-solving that come with each journey, building connections with the people she meets, and appreciating the diversity the world has to offer. That same creativity, enthusiasm, and adaptability shape her family life and inform the forward-thinking approach she brings to every client relationship.

As our outgoing editor, Amber leaves big shoes to fill and a lasting legacy of excellence in our newsletter. Thank you, Amber, for your leadership, dedication, and the engaging voice you've brought to our newsletter and our entire Workers' Compensation team!

Amber is the mother of two energetic sons, embracing a life with her husband that's always filled with new adventures.



AMBER CAMERON
PARTNER
EDWARDSVILLE

BELOW THE RED LINE

Team Spotlight

Jenna Kobernus Takes the Helm: Meet our New Newsletter Editor!

From an early age, Jenna was courtside, cheering on the Bradley Braves with her superfan parents. It's no wonder she found herself in St. Louis—the heart of Arch Madness and the Missouri Valley Conference.

We're thrilled to announce a brand new chapter for our Workers' Compensation newsletter as Jenna steps up as our new editor! With her boundless energy, sharp legal acumen, and a genuine passion for the field, Jenna is ready to take "Below the Red Line" to new heights.

Jenna, based in St. Louis, has been an invaluable member of our Workers' Compensation Practice Group since 2018, fiercely defending claims across Illinois and Missouri. Her track record speaks for itself: clients trust her attention to detail and innovative approach to problem-solving. But it's her enthusiasm for connecting people and sharing knowledge that truly sets her apart.

As editor, Jenna brings a fresh vision and an engaging style, promising articles that are both informative and inspiring. She's not just about the latest legal trends—she's committed to spotlighting the stories and successes within our community.

When she's not in the courtroom or crafting compelling content, Jenna's out volunteering, spending time with her family, or chasing after her spirited puppy. Join us in welcoming Jenna, and get ready for a newsletter that's more vibrant than ever!



JENNA KOBERNUS
PARTNER
ST. LOUIS

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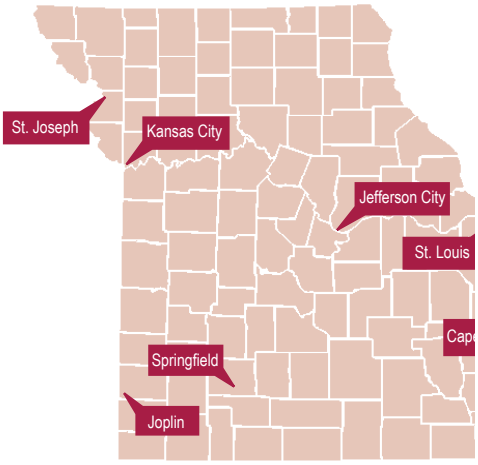
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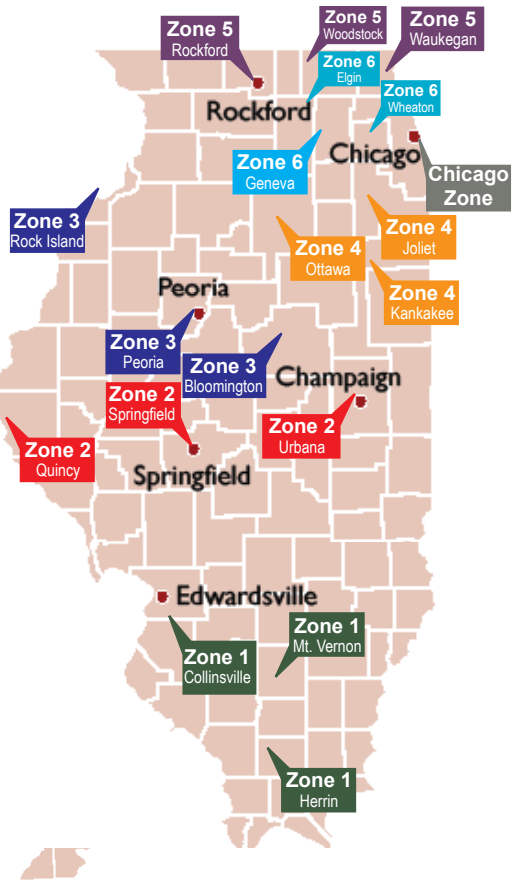
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TTD, DEATH, PERM. TOTAL & AMP. RATES

ACCIDENT DATE	MAX. RATE TTD, DEATH, PERM. TOTAL, AMP.	MIN. RATE DEATH, PERM. TOTAL, AMP.
7/15/19 to 1/14/20	$1529.84	$573.69
1/15/20 to 7/14/20	$1549.07	$580.90
7/15/20 to 1/14/21	$1572.01	$589.51
1/15/21 to 7/14/21	$1613.93	$605.23
7/15/21 to 1/14/22	$1693.76	$635.16
1/15/22 to 7/14/22	$1734.83	$650.56
7/15/22 to 1/14/23	$1792.73	$672.28
1/15/23 to 7/14/23	$1848.20	$693.08
7/15/23 to 1/14/24	$1861.18	$697.96
1/15/24 to 7/14/24	$1897.92	$711.72
7/15/24 to 1/14/25	$1907.79	$715.42
1/15/25 to 7/14/25	$1936.86	$726.34
7/15/25 to 1/14/26	$1974.73	$740.53
1/15/26 to 7/14/26	$2008.60	$753.25

MINIMUM TTD & PPD RATES

# of dependents, including spouse	7/15/10-1/14/20	1/15/20-7/14/20	7/15/20-1/14/21	1/15/21-1/14/22	1/15/22-1/14/23	1/15/23-1/14/24	1/15/24-1/14/25	1/15/26-7/14/26
0	$220.00	$246.67	$266.67	$293.33	$320.00	$346.67	$373.33	$400.00
1	$253.00	$283.67	$306.67	$337.33	$368.00	$403.88	$429.33	$460.00
2	$286.00	$320.67	$346.67	$381.33	$416.00	$456.04	$485.33	$520.00
3	$319.00	$357.67	$386.67	$425.33	$464.00	$508.04	$541.33	$580.00
4+	$330.00	$370.00	$400.00	$440.00	$480.00	$520.00	$560.00	$600.00

MAXIMUM PERMANENT PARTIAL DISABILITY RATES

ACCIDENT DATE	MAXIMUM RATE
7/1/16 to 6/30/17	$775.18
7/1/17 to 6/30/18	$790.64
7/1/18 to 6/30/19	$813.87
7/1/19 to 6/30/20	$836.69
7/1/20 to 6/30/21	$871.73
7/1/21 to 6/30/22	$937.11
7/1/22 to 6/30/23	$998.02
7/1/23 to 6/30/24	$1024.87
7/1/24 to 6/30/25	$1045.92
7/1/25 to 6/30/26	$1084.66

MAXIMUM 8(D)(1) WAGE DIFFERENTIAL RATE

ACCIDENT DATE	MAXIMUM RATE
7/15/21 to 1/14/22	$1270.32
1/15/22 to 7/14/22	$1301.12
7/15/22 to 1/14/23	$1344.55
1/15/23 to 7/14/23	$1386.15
7/15/23 to 1/14/24	$1395.92
1/15/24 to 7/14/24	$1423.44
7/15/24 to 1/14/25	$1430.84
1/15/25 to 7/14/25	$1452.68
7/15/25 to 1/14/26	$1481.05
1/15/26 to 7/14/26	$1506.49

SCHEDULED LOSSES (100%)

	Effective 2/1/06 (and 7/20/05 to 11/15/05)
Person as a whole	500 wks
Arm	253 wks
Amp at shoulder joint	323 wks
Amp above elbow	270 wks
Hand	205 wks
Repetitive carpal tunnel claims	190 wks
Benefits are capped at 15% loss of use of each affected hand absent clear and convincing evidence of greater disability, in which case benefits cannot exceed 30% loss of use of each affected hand.	
Thumb	76 wks
Index	43 wks
Middle	38 wks
Ring	27 wks
Little	22 wks

	Effective 2/1/06 (and 7/20/05 to 11/15/05)
Leg	215 wks
Amp at hip joint	296 wks
Amp above knee	242 wks
Foot	167 wks
Great toe	38 wks
Other toes	13 wks
Hearing	
Both ears	215 wks
One ear	54 wks
Eye	
Enucleated	173 wks
One eye	162 wks
Disfigurement	162 wks

Death benefits are paid for 25 years or $500,000 whichever is greater.

As of 2/1/06, burial expenses are $8,000.

The current state mileage rate is $0.70 per mile.

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WORKERS' COMPENSATION PRACTICE GROUP



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WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"



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ABOUT US

A regional law firm with more than 100 lawyers and seven offices in Illinois and Missouri, Heyl Royster has served the legal needs of individuals and businesses for over 110 years. With a national reputation in litigation, integrated with significant business and transactional expertise, our attorneys are known for comprehensively representing the interests of our clients with a focus on cost efficiency and success.

We are eager stewards of the law, providing legal services for individuals, businesses and corporations, professionals, healthcare organizations, governmental entities, universities, insurance carriers, and other major institutions. We zealously identify and help develop legal trends and use that knowledge to help our clients accomplish their objectives and goals collaboratively.

OUR PRACTICES

Some attorneys have a broad practice and deal with many different concerns, while others have a more narrow scope, developing a deep knowledge of their chosen subject matter. Heyl Royster prioritizes firm-wide collaboration and teamwork, organizing our attorneys by managing their specific skills and specialties, and developing competitive strategies to best serve our clients.

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- Business Organizations & Transactions
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- Class Action & Mass Tort
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- Not-for-Profit Organizations and Religious & Clergy
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- Product Liability
- Professional Liability
- Professional Regulation & Licensure
- Qui Tam
- Railroad Litigation
- Real Estate
- Toxic Torts & Asbestos
- Trucking
- Workers' Compensation