“ARISING OUT OF”
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This area of law is as clear as black and white, or white and black? Or maybe not so clear at all?
INTRODUCTION

Background
- Myself
- All questions are good questions, ask one at anytime

Agenda
- 1. Definitions
- 3. Traveling Employees
- 4. Idiopathic Injuries
- 5. Dykhoff Line of Cases
- 6. Wrap up

Some Very Simple Basic Definitions

Elements of Worker's Compensation (A No-Fault system)
1. Injury
2. Arising Out of Employment
3. Within Course and Scope
4. Notice

Basic Elements of Negligence
1. Duty of Care
2. Breach of Duty
3. Causation
4. Damages

Legal Causation for Worker's Compensation Claims
1. Statute
2. Case Law
Acts of God

- Meant to be non-religious, but rather, injuries resulting from natural events
- Examples
  - Lightning
  - Flood
  - Frostbite
  - Influenza
  - Emergency Situation
- Not covered
  - Terrorism
  - War

“Why does God need a spaceship?”

Traveling Employees

- The Coming and Going Rule
- Street Risks
- Ingress and Egress
- Special Hazards
- Acts of Third persons or Co-employees
Idiopathic Injuries

The General Rule

Conditions
- Flat Surfaces
- Stairs
- Standing
- Flexion/Extension
- Pre-existing impairments

Definition
- Increased Risk Test
- Positional Risk Test

Prior History of Slip and Fall Cases

Kirchner
The Political Fight at the Supreme Court

- Kubis Decision
  - Facts
  - Decision
  - Rationale

- Hohlt Decision
  - Facts
  - Decision
  - Rationale

A Little More Clarity

- Roller-Dick and Lein Decisions
  - Facts
  - Decision
  - Rationale
  - Dissent
Where are we today?

To boldly go forward

Thank You, Luke