

# Order

Michigan Supreme Court  
Lansing, Michigan

September 23, 2009

Marilyn Kelly,  
Chief Justice

138985

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

MANUEL BUITENDORP,  
Plaintiff-Appellee,

v

SC: 138985  
COA: 289999  
WCAC: 08-000075

SWISS VALLEY, INC., d/b/a SWISS  
VALLEY SKI RESORT, and AUTO-OWNERS  
INSURANCE COMPANY,  
Defendants-Appellants.

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On order of the Court, the application for leave to appeal the May 8, 2009 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the decision of the Workers' Compensation Appellate Commission (WCAC) and REMAND this case to the worker's compensation Board of Magistrates for reconsideration under the proper legal standard. The magistrate and WCAC employed an improper legal framework in analyzing the facts of this case by assessing whether the major purpose of the plaintiff's *overall* activities were work-related. Under MCL 418.301(3) and *Eversman v Concrete Cutting & Breaking*, 463 Mich 86 (2000), the major purpose of the plaintiff's activity *at the time of injury* determines whether the social or recreational bar applies.

We do not retain jurisdiction.



0916

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2009

*Corbin R. Davis*

Clerk