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NO. 70923-2-I

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

CYNTHIA DILLON,

Appellant,

v.

DEPARTMENT OF LABOR & INDUSTRIES OF THE STATE OF
WASHINGTON AND BARDAHL MANUFACTURING, A
WASHINGTON CORPORATION,

Respondents.

**BRIEF OF RESPONDENT
DEPARTMENT OF LABOR AND INDUSTRIES**

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I. INTRODUCTION

This is a workers' compensation appeal involving the "parking area" exception to workers' compensation coverage under RCW 51.08.013. Generally, a worker who is injured while going to or from work on the jobsite is eligible for workers' compensation benefits. Under RCW 51.08.013, however, the Legislature has specifically exempted workers injured in a "parking area" while going to or from work from receiving workers' compensation benefits.

Cynthia Dillon slipped on ice and fell in a parking area on her employer's property after leaving work for the day. The superior court found that her employer has used the area where she fell for parking since the 1950s, that up to 10 cars park in that area on any given day, and that her employer does not use the area where she fell for conducting any business. Dillon does not argue that substantial evidence does not support these findings, which support the superior court's conclusion that the "parking area" exception in RCW 51.08.013 applies.

Dillon asserts that the area where she fell should have been used for other purposes instead of parking, including a fire lane, a walking lane for employees to access the workplace, and a lane for ADA access. But under well-established case law, the actual use of the "parking area," not

its hypothetical use, determines whether the “parking area” exception applies.

Dillon also argues that she is entitled to coverage under the “hazardous route” rule because her customary route to leave work exposed her to a hazard not shared by the general public. Well-established case law makes clear that the “hazardous route” rule does not trump the Legislature’s clear direction to exclude parking areas from coverage. Additionally, the route that Dillon took was not the only practical route to leave work, as the “hazardous route” rule requires, and the presence of ice on a cold November day was a hazard shared by the general public. Accordingly, this Court should affirm.

II. ISSUES

1. Did the superior court correctly conclude that RCW 51.08.013’s “parking area” exception applied where Dillon fell in an area that her employer has used since the 1950s for parking, where up to 10 cars park on any given day, and where her employer does not use the area to conduct business?
2. Does the “hazardous route” rule apply to parking areas when the Legislature has specifically exempted parking areas from coverage under RCW 51.08.013 and when the Supreme Court has determined that the rule applies only when a worker is going to or from a parking area?

III. STATEMENT OF THE CASE

A. **Employees Have Parked Their Cars In An Asphalt Parking Area On Bardahl's Premises Since The 1950s And Up To 10 Cars Park There On Any Given Day**

Bardahl Manufacturing, Inc., operates a manufacturing plant in Seattle's Ballard neighborhood. BR Dillon 19; BR Nicolaysen 100. Bardahl blends and packages fuel additives at the plant. BR Nicolaysen 100-01. Bardahl has been at that location since 1953. BR Nicolaysen 114.

Cynthia Dillon started working at Bardahl as a full-time lab technician in November 2009. BR Dillon 19-20; BR Fisk 133, 140-41. On November 24, 2010, the date of her injury, about 35 to 40 people worked at the plant. BR Nicolaysen 102; *see also* BR Dillon 20.

Since the 1950s, Bardahl workers have parked their cars in an area on Bardahl's premises. BR Nicolaysen 115-16, 120-21. That area is visible in Exhibits 1-9 and 12-15.¹ Exhibit 1 shows Northwest 52nd Street, a concrete ramp from the street to the sidewalk, an area of dark asphalt on the other side of the sidewalk where cars park, and an employee door (also visible in Exhibit 5) to enter and exit the plant. Exs. 1, 5; BR Dillon 24, 36; BR Nicolaysen 120; BR Fisk 147. The left half of Exhibit

¹ Color copies of exhibits 1-18 appear in the certified appeal board record and are attached to this brief as an appendix.

1, and most of Exhibit 3, depicts an area of the plant called “the boat shop.” BR Nicolaysen 116; BR Fisk 145.

As Exhibits 1, 2, 4, 12, 13, and 14 depict, workers park at an angle in the asphalt parking area beneath an exterior wall with green panels. Exs. 1, 2, 4, 12, 13, 14; BR Nicolaysen 108. That part of the plant contains Bardahl’s office. BR Nicolaysen 108. The main entrance to the Bardahl’s office and lab is around the corner from the angled parking and is visible in Exhibits 10 and 11. Exs. 10, 11; Br Nicolaysen 105-06, 114-15; BR Fisk 141.

Workers park in the angled parking spots beneath the green panels on a daily basis and have done so for years. BR Dillon 38; BR Nicolaysen 108. These spots are reserved for office workers. BR Dillon 38; BR Nicolaysen 117. On the green panels in front of these parking spots, there are four signs that read “Reserved Parking,” and another sign that reads “Employee Parking Only.” Ex. 9, 12, 13, 14; BR Dillon 39. Another sign posted on the exterior wall states that unauthorized cars will be towed. BR Nicolaysen 108; Ex. 12.

As can be seen in Exhibits 1-8 and Exhibit 12, in addition to parking in the angled parking spots, employees park on other portions of the dark asphalt area on a first come, first served basis. *See* Exs. 1-8, 12; BR Nicolaysen 117, 129. Employees park their cars on the dark asphalt

area in the area in front of the roll-up bay door and parallel to the boat shop's yellow exterior wall. Exs. 1-8, 12; BR Nicolaysen 116; BR Fisk 145; *see* BR Dillon 34. Usually two or three cars park there in a line. BR Nicolaysen 116. The silver car in Exhibit 5 often parks in the location where it appears in Exhibit 5. BR Dillon 34. The white sports utility vehicle in Exhibits 1 and 2 is owned by Dennis Fisk, Bardahl's quality assurance manager. BR Fisk 134-35. The location where his vehicle is parked in Exhibit 1 is one of his typical parking spots. BR Fisk 145. Fisk testified that cars have parked in the area parallel to the boat shop ever since he started working at Bardahl 16 years ago. BR Fisk 140, 145.

Bardahl does not use the "roll-up" bay door in the dark asphalt parking area for business operations. BR Nicolaysen 118-19, BR Fisk 146. It is opened only for ventilation on hot summer days. BR Nicolaysen 118; BR Fisk 146; *see also* BR Dillon 38. There are secured shelves behind that bay door, which are visible in Exhibits 16 and 18. BR Dillon 38; BR Nicolaysen 119-20; BR Fisk 137-38, 146-47; Exs. 16, 18.

In addition to the dark asphalt area, one to two cars generally park in front of the boat shop's roll-up door. BR Nicolaysen 116; BR Fisk 145. Bardahl sometimes parks containers in front of this bay door. BR Nicolaysen 111-12. When that occurs, employees cannot park there. BR Nicolaysen 112.

According to Bardahl's chief operating officer Eric Nicolaysen, on a typical day, about 5 to 7 cars park in the parking area visible in Exhibit 3 and about 8 or 9 cars park in the area visible in Exhibit 4. BR Nicolaysen 115-16. Fisk estimated that, on a typical day, 8 to 10 cars park in the parking area, including the area next to the office building, by the boat shop, and parallel to the boat shop. BR Fisk 146.

The asphalt parking area contains a drain. *See* Ex. 2. Dillon testified that she had observed Bardahl employees throw out water from mop buckets from the boat shop's bay door towards the drain. BR Dillon 35, 40-41. Fisk testified that an employee dumps buckets holding "a couple gallons" into the drain. BR Fisk 148. According to Dillon, not all the water would go down the drain; some would "splash out." BR Dillon 41. She did not see any water poured into the drain on the day of her fall. BR Dillon 46.

B. Cynthia Dillon Worked As A Lab Technician At Bardahl And Parked Her Motorcycle In The Asphalt Parking Area On Days When She Rode To Work

Dillon's normal work hours were from 7:30 a.m. to 4:00 p.m. BR Dillon 20. When she commuted to work by train and bus, she walked three blocks from her bus stop to work. BR Dillon 20. On nice days, she often rode her motorcycle to work. BR Dillon 46-47; BR Nicolaysen 117-18. When she rode her motorcycle, she parked it in the corner of the

asphalt area near the fire hose connection visible in Exhibit 9. BR Dillon 39-40, 46-47; BR Thorpe 66; BR Nicolaysen 117; BR Fisk 144.

C. Bardahl Employees Could Enter The Plant Through Either Of Two Doors And Bardahl Management Did Not Mandate That Employees Use A Specific Entrance

Employees could enter the Bardahl plant through the main entrance visible in Exhibits 10 or 11 or through an employee entrance in the parking area visible in Exhibit 5. BR Nicolaysen 112-13, 122. Bardahl does not have a policy about which door employees use to enter or exit the building. BR Nicolaysen 121. Employees can choose which door to use. BR Nicolaysen 130; *see also* BR Dillon 44.

Dillon always entered and exited the plant through the employee door visible in Exhibit 5. BR Dillon 23-24; BR Fisk 136-37, 143. Fisk, her supervisor, did not tell her which door to use. BR Fisk 142. Dillon worked in the lab on the second floor. BR Fisk 142. Although Dillon always used the employee door, the main entrance was most direct route out of the building from her work space. BR Nicolaysen 121-22; BR Fisk 142-43. Dillon was required to sign in and out on a whiteboard that was about 10 to 12 feet from the main entrance. BR Fisk 144.

D. On November 24, 2010, Dillon Slipped On Ice In the Asphalt Parking Area On Her Way Home

On November 24, 2010, Bardahl allowed its employees to go home early. BR Dillon 21; BR Fisk 134. It was the day before Thanksgiving and “the weather was supposed to be changing.” BR Dillon 21. It had snowed earlier in the week, and it was a cold day. BR Dillon 22-23; BR Fisk 134. There was ice and snow around all of the Pacific Northwest that day, including in the parking area. BR Dillon 23, 42; BR Nicolaysen 104.

At about 3:30 p.m., Dillon exited the employee door visible in Exhibit 5 in order to go home. BR Dillon 21, 24, 45-46. She testified that her job duties had ended at that point. BR Dillon 45, 51-52. She walked about 15 feet from the door and slipped on a patch of black ice. BR Dillon 26; *see also* Dillon 42. She fell onto her low back and felt pain immediately. BR Dillon 26.

Dillon marked the area where she fell with an “X” on Exhibit 2. BR Dillon 33; Ex. 2; *see also* Ex. 19. There was no car parked where she fell. BR Dillon 34. Dillon believed that the silver car visible in Exhibit 5 was parked between the employee door and the area where she fell. BR Dillon 34.

The area where she fell was near the drain. *See* Ex. 2. Dillon testified that she had “tried to go on around the drainage area” that day

because she was aware “that there possibly could be some hazards around there.” BR Dillon 42. She did not see anyone pouring anything into the drain on November 24, 2010. BR Dillon 46.

The area where Dillon fell was owned, controlled, and maintained by Bardahl. BR 5. Dillon never had to perform job duties in the area where she fell. BR Dillon 46; BR Fisk 141.

Dillon filed a workers’ compensation claim. BR Dillon 30. When asked to describe what happened, she stated, “I was leaving work walking across Bardahl parking lot. I then slipped on some ice and fell on my back.” BR Dillon 48; Ex. 19. The Department did not allow her claim because her injury occurred in a “parking area” and therefore was not covered under RCW 51.08.013. BR 29. Dillon appealed to the Board. BR 29.

E. At Hearing, Dillon Presented The Testimony Of Robert Thorpe, A Land Use Planner Who Testified That Bardahl’s Parking Area Should Have Had A Multi-Use Lane For Access Purposes

At the Board hearing, Dillon presented the testimony of Robert Thorpe, a land use consultant who visited the Bardahl premises one year after her fall. BR Thorpe 55, 62-63. Thorpe was asked to determine

whether the area where she fell “should appropriately be used as a parking area” under city, state, and federal code.² BR Thorpe 62.

Thorpe concluded that there should be a lane or “walking area” in the parking area for access under the American with Disabilities Act (ADA), for “fire access,” and for “unloading chemical materials.” BR Thorpe 62, 69. He testified that there needed to be a fire lane, which “could be combined with ADA and emergency access” and could be a “multiple-use lane, walkway, or lane” between the office building with the green exterior panels and the boat shop. BR Thorpe 67.

Referring to Exhibit 4, he noted that the cars in the angled parking spaces were “in designated areas.” BR Thorpe 70. He reviewed “pictures that previously were in the public record that showed four striped stalls” in that area. BR Thorpe 71; *see also* BR Thorpe 64. The cars parked in front of the employee entrance in Exhibit 7 were “parked where they shouldn’t be parked.” BR Thorpe 70. According to Thorpe, that should be “an open

² The Department moved under ER 702 to exclude Thorpe’s testimony in its entirety because no scientific, technical, or specialized knowledge was required to determine if Dillon fell in a parking area. BR 6-7. The industrial appeals judge denied the Department’s motion. BR 54, 160. The Department raised numerous objections during Thorpe’s testimony. *See* BR Thorpe 54-99. The industrial appeals judge sustained many of these objections during the hearing and allowed the testimony in colloquy. *See* BR Thorpe 54-99. In her proposed decision and order, however, the judge overruled many of the objections that she had previously sustained and removed that testimony from colloquy. BR 30.

At superior court, the Department renewed its objection to Thorpe’s testimony. CP 85 n. 2. The superior court record does not contain an oral or written ruling on the Department’s renewed motion. Accordingly, the evidence that the industrial appeals judge admitted is the factual record before this Court. *See* BR 29-30.

lane for ADA” and “for turning movements and parking requirements.”

BR Thorpe 70-71.

On Exhibits 2 and 3, Thorpe drew the location of the designated lane. BR Thorpe 79-83. He testified that the primary use of this lane would be as follows:

First would be federal, ADA. Second would be state and local codes, fire codes, related to fire access for fire suppression and also for emergency access. The third one would be for the loading and unloading of – or storing of flammable materials for use in processing of the materials in the building.

BR Thorpe 83. He explained that, based on his walk around the Bardahl building and his permitting experience, “this would be the most logical area” for the lane. BR Thorpe 77.

Nicolaysen testified that the fire marshal inspected the Bardahl premises from time to time and that the fire department had recently re-issued a permit regarding the company’s updated sprinkler system. BR Nicolaysen 126. He had never been contacted by the state or federal government regarding parking on the property. BR Nicolaysen 125. Bardahl had never received fines or citations from the city or fire department about the premises. BR Nicolaysen 126.

F. The Board And Superior Court Concluded That Dillon Was Not Entitled To Workers' Compensation Benefits Because She Fell In A Parking Area

After hearing the testimony, an industrial appeals judge issued a proposed decision and order affirming the Department's order. BR 29-45. She concluded that Dillon was injured in a "parking area," and thus was not acting in the course of employment under RCW 51.08.013. CP 45.

The industrial appeals judge did not rely on Thorpe's testimony because she found "no authority for the proposition that an area used as a parking area falls outside of the parking lot exception set forth in RCW 51.08.013 because the parking area *should* have been used for another purpose."³ BR 43.

Dillon petitioned for review to the three-member Board. BR 3-17. The Board denied her petition and adopted the proposed decision as its final decision. BR 1.

Dillon appealed to superior court. CP 1-2. The superior court denied the Department's motion for summary judgment. CP 48-49. After a bench trial, the superior court affirmed the Board and entered the following findings:

³ Like the industrial appeals judge in this case, courts occasionally refer to the "parking area" exception as "the parking lot exception." *See, e.g., Bolden v. Dep't of Transp.*, 95 Wn. App. 218, 222, 974 P.2d 909 (1999). This brief uses the term "parking area" in accordance with the statutory language. *See* RCW 51.08.013.

- 1.3 Bardahl Manufacturing has used the area where Ms. Dillon fell, for parking cars since the 1950s. On any given day, up to 10 cars park there.
- 1.4 Bardahl Manufacturing does not use the area where Ms. Dillon fell for conducting business.
- 1.5 Bardahl Manufacturing did not mandate what route Ms. Dillon took to exit the building and property.

CP 103. The superior court concluded that Dillon was injured in a “parking area” and thus not acting within the course of employment under RCW 51.08.013. CP 104; BR 45. Dillon now appeals.

IV. STANDARD OF REVIEW

In an industrial insurance case, it is the decision of the trial court that the appellate court reviews, not the Board’s decision. *See Rogers v. Dep’t of Labor & Indus.*, 151 Wn. App. 174, 179-81, 210 P.3d 355 (2009); RCW 51.52.140. This Court limits its review to “examination of the record to see whether substantial evidence supports the findings made after the superior court’s de novo review, and whether the court’s conclusions of law flow from the findings.” *Ruse v. Dep’t of Labor & Indus.*, 138 Wn.2d 1, 5, 977 P.2d 570 (1999) (quoting *Young v. Dep’t of Labor & Indus.*, 81 Wn. App. 123, 128, 913 P.2d 402 (1996)). This Court gives great weight to the agency’s interpretation of the law it administers. *Dep’t of Labor & Indus. v. Allen*, 100 Wn. App. 526, 530, 997 P.2d 977 (2000).

Dillon does not assign error to any specific findings by the superior court. *See* App. Br. 2; RAP 10.3(g). Nor does she argue in her brief that the superior court's factual findings are not supported by substantial evidence. *See* App. Br. 2. Rather, she challenges the court's conclusion that her injury occurred in a "parking area" and that the "parking area" exception to coverage applies. App. Br. 2.

Accordingly, the trial court's factual findings are verities on appeal. RAP 10.3(a)(6), (g); *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); *Rogers*, 151 Wn. App. at 176 n. 2; *see also In Re Estate of Lint*, 135 Wn.2d 518, 531-33, 957 P.2d 755 (1998) (where party fails to present clear argument as to how the finding is not supported by substantial evidence, the finding is a verity). This Court's review is limited to determining whether the trial court's conclusions flow from the unchallenged findings. *Ruse*, 138 Wn.2d at 5.

V. SUMMARY OF THE ARGUMENT

Under well-established law, "if an employee is injured on the parking lot, while coming to or going from work, RCW 51.08.013 precludes the injured employee from workers' compensation benefits." *Bolden v. Dep't of Transp.*, 95 Wn. App. 218, 223, 974 P.2d 909 (1999) (quoting *Bergsma v. Dep't of Labor & Indus.*, 33 Wn. App. 609, 615, 656 P.2d 1109 (1983)). A "parking area" is "a place where vehicles park" and

“an area in which vehicles may be left.” *Univ. of Wash. v. Marengo*, 122 Wn. App. 798, 803, 95 P.3d 787 (2004); *Madera v. J.R. Simplot, Co.*, 104 Wn. App. 93, 97, 15 P.3d 649, *as amended*, 36 P.3d 1072 (2001) (quoting Webster’s Third New Int’l Dictionary 1642 (3d ed. 1993)); *Boeing Co. v. Rooney*, 102 Wn. App. 414, 418-19, 10 P.3d 423 (2000).

Dillon slipped and fell in an area that her employer has used as a parking area since the 1950s. Up to 10 cars park in the area on a typical day. At the time of her fall, Dillon’s job duties had ended, and she was on her way home. Because she was injured in a “parking area,” the superior court correctly determined that RCW 51.08.013’s “parking area” exception applied and that she was not entitled to workers’ compensation benefits.

Dillon argues that the area where she fell should have been used for other purposes rather than a parking area. But an area used for parking is a “parking area” under RCW 51.08.013 regardless of whether the area could or should have been used for another purpose. Courts that have applied the “parking area” exemption examine the area’s actual use.

Dillon further contends that the “parking area” exception is not applicable because the “hazardous route” rule applies. Under the “hazardous route” rule, a worker can be entitled to workers’ compensation coverage if the worker is injured just outside of areas controlled by his or

her employer on his or her way to or from a parking area and if several specific conditions are met, including that the worker was taking the only practical route to or from the parking area and was therefore exposed to a hazard not shared by the general public. As case law makes clear, the “hazardous route” rule does not apply to a worker injured in the “parking area” itself. Additionally, the route that Dillon took on the day she was injured was not the only practical route to leave the building and property, and the presence of ice on a cold November day was a hazard shared by the general public.

VI. ARGUMENT

A. **Under RCW 51.08.013’s “Parking Area” Exception, A Worker Who Is Injured In A “Parking Area” While Going To And From Work Cannot Receive Workers’ Compensation Benefits**

A worker injured during the course of his or her employment is entitled to workers’ compensation benefits. *See* RCW 51.32.015; RCW 51.36.040. The Industrial Insurance Act defines “acting in the course of employment” as including time spent going to and from work on areas controlled by the employer, except for “parking area[s]”:

[T]he worker acting at his or her employer’s direction or in the furtherance of his or her employer’s business which shall include time spent going to and from work on the jobsite, as defined in RCW 51.32.015 and 51.36.040, insofar as such time is immediate to the actual time that the worker is engaged in the work process in areas controlled by his or her employer, *except parking area*

RCW 51.08.013 (emphasis added).⁴ The statute’s reference to “the time spent coming to and going from work” is known as the “coming and going rule.” *See, e.g., Bolden*, 95 Wn. App. at 221.

As this Court has repeatedly observed, under RCW 51.08.013, “parking areas are specifically excepted from coverage under the coming and going rule.” *Bolden*, 95 Wn. App. at 221; *accord Ottesen v. Food Servs. of Am., Inc.*, 131 Wn. App. 310, 315, 126 P.3d 832 (2006); *Madera*, 104 Wn. App. at 96 (“specifically excepted from coverage are injuries occurring in ‘parking areas’ while going to or from work”); *Bergsma*, 33 Wn. App. at 615. Therefore, “if an employee is injured on the parking lot, while coming to or going from work, RCW 51.08.013 precludes the injured employee from workers’ compensation benefits.” *Bolden*, 95 Wn. App. 223 (quoting *Bergsma*, 33 Wn. App. at 615); *accord Rooney*, 102 Wn. App. at 421.

B. A “Parking Area” Under RCW 51.08.013 Is “An Area In Which Vehicles May Be Left” And “A Place Where Vehicles Park”

Since the Industrial Insurance Act does not contain a definition of “parking area,” courts use a dictionary to define the term. *See Marengo*, 122 Wn. App. at 803; *Madera*, 104 Wn. App. 97. The *Madera* court noted that the ordinary dictionary definition of “parking” is “the leaving of a

⁴ Dillon asserts that RCW 51.08.013 says “designated parking area.” App. Br. 10. It does not.

vehicle in an accessible location” or “an area in which vehicles may be left.” *Madera*, 104 Wn. App. at 97 (quoting Webster’s Third New Int’l Dictionary 1642 (3d ed. 1993)). The *Madera* court applied this definition to determine that the area of injury in that case, a drive-through lane used for deliveries, was not a “parking area.” See *Madera*, 104 Wn. App. at 95, 97-98.

This Court has subsequently applied *Madera*’s ordinary dictionary definition of “parking” in another “parking area” case. In *Marengo*, a worker slipped and fell in an interior stairwell of Harborview Medical Center’s parking garage. 122 Wn. App. at 800. This Court discussed *Madera*’s citation of the dictionary definitions of “parking” and its conclusion that “an ordinary person would not view a drive-through lane as intended for parking.” *Marengo*, 122 Wn. App. at 803 (quoting *Madera*, 104 Wn. App. at 98). Applying this rule to the facts before it, this Court approved the Board’s conclusion that “the stairwell where Marengo was injured is a means of getting to and leaving the parking area *and not a place where vehicles park.*” *Marengo*, 122 Wn. App. at 803; accord *Rooney*, 102 Wn. App. at 418-19 (interpretation of “parking area” as an “area where vehicles are parked” is in accord with the term’s ordinary meaning). Therefore, the “parking area” exception did not apply. *Marengo*, 122 Wn. App. at 803-04.

Dillon cites the doctrine that the Industrial Insurance Act “must be liberally construed” and that exceptions should be construed narrowly. *See* App. Br. 2, 22; RCW 51.12.010; *Marengo*, 122 Wn. App. at 804. She contends that the superior court violated these doctrines by interpreting the “parking area” exception broadly. *See* App. Br. 11. She is incorrect.

First, the doctrine of liberal construction is not applicable here because the term “parking area” is not ambiguous. *See Harris v. Dep’t of Labor & Indus.*, 120 Wn.2d 461, 474, 843 P.2d 1056 (1993) (the liberal construction rule does not apply to unambiguous terms in the Industrial Insurance Act). The primary purpose in interpreting a statute is to give effect to the Legislature’s intent. *Udall v. T.D. Escrow Servs., Inc.*, 159 Wn.2d 903, 909, 154 P.3d 882 (2007). If the statute’s meaning is plain on its face, then the court must give effect to that plain meaning as an expression of the Legislature’s intent. *Udall*, 159 Wn.2d at 909. An unambiguous statute is not subject to statutory construction. *Cerrillo v. Esparza*, 158 Wn.2d 194, 201, 142 P.3d 155 (2006). When a statute does not define a term, courts use standard dictionaries to ascertain the term’s plain and ordinary meaning. *Lindeman v. Kelso Sch. Dist. No. 458*, 162 Wn.2d 196, 201-02, 172 P.3d 329 (2007).

Second, the superior court did not interpret the exclusion broadly. Rather, it applied the ordinary definition of “parking area” as adopted and

applied by *Madera* and *Marengo*. The “parking area” exception applies because Dillon fell in “an area in which vehicles may be left” and in “a place where vehicles park.” See *Marengo*, 122 Wn. App. at 803; *Madera*, 104 Wn. App. at 97; *accord Rooney*, 102 Wn. App. at 418-19.

Dillon further asserts that “parking area” is “open for interpretation” because the statute does not define that term. App. Br. 11. This argument is incorrect. As discussed above, courts have interpreted “parking area” to mean “an area in which vehicles may be left” and “a place where vehicles park.” See *Marengo*, 122 Wn. App. at 803; *Madera*, 104 Wn. App. 97; *accord Rooney*, 102 Wn. App. at 418-19. Those are the definitions that this Court should apply.

C. Because Dillon Fell in An Area Where Bardahl Employees Have Parked Their Vehicles For Over 50 Years, The “Parking Area” Exception in RCW 51.08.013 Applies

The evidence overwhelmingly supports that Bardahl employees used the area where Dillon fell as a parking area. A parking area is “an area in which vehicles may be left.” *Madera*, 104 Wn. App. at 97 (quoting Webster’s Third New Int’l Dictionary 1642 (3d ed. 1993)). It is a “place where vehicles park.” *Marengo*, 122 Wn. App. at 803; *accord Rooney*, 102 Wn. App. at 418-19. The superior court’s unchallenged finding states that Bardahl has used the area where Dillon fell for parking since the 1950s. See CP 103. It further states that, on any given day, up to

10 cars park in the area where she fell. CP 103. Dillon does not challenge this finding as being unsupported by substantial evidence and it is a verity on appeal. RAP 10.3(a)(6); *Cowiche Canyon Conservancy*, 118 Wn. 2d at 809; *Rogers*, 151 Wn. App. at 176 n. 2; *see also In re Lint*, 135 Wn.2d at 531-33.

In any case, the record amply supports this finding. Fisk testified that 8 to 10 cars parked in the area next to the office building, by the boat shop, and parallel to the boat shop. BR Fisk 146. He testified that cars have parked parallel to the boat shop since he started working at Bardahl 16 years ago. BR Fisk 140, 145. Nicolaysen testified that, on a typical day, up to 7 cars park in the area visible in Exhibit 3 and 8 or 9 cars park in the area visible in Exhibit 4. BR Nicolaysen 115-16. Bardahl has used that area for parking for at least 50 years. BR Nicolaysen 115-16, 120-21. Dillon's own witness Randy Thorpe determined "the area where Ms. Dillon fell was customarily used by employees for parking." App. Br. 9; *see* BR Thorpe 64, 70-73.

Dillon testified that she parked her motorcycle in the corner of the parking area, that cars parked on a daily basis in the angled parking spots, and that the silver car visible in Exhibit 5 often parked parallel to the boat shop, including on the day she fell. BR Dillon 34, 38, 46-47. Dillon provided a written statement to the Department that she "was leaving work

walking *across Bardahl parking lot*” when she slipped on ice. Ex. 19 (emphasis added); BR Dillon 48.

Accordingly, Dillon fell in “an area in which vehicles may be left” and in “a place where vehicles park.” See *Marengo*, 122 Wn. App. at 803; *Madera*, 104 Wn. App. at 97; *Rooney*, 102 Wn. App. at 418-19. Under the ordinary definition of parking, as adopted and applied by *Madera* and *Marengo*, Dillon fell in a “parking area” as she left work for the day. Therefore, under RCW 51.08.013, she is not entitled to workers’ compensation benefits.

D. When Considering Whether An Area Is A “Parking Area” Under RCW 51.08.013, Courts Examine How The Area Is Actually Used, Not What The Area Could Or Should Be Used For

An area actually used for parking is a parking area, regardless of whether it “should have been” used for something else. Dillon does not appear to dispute that the area where she fell was actually used for parking; rather, her theory is that the area where she fell should not have been used for parking and, therefore, it is not a parking area. App’s Br. 15-16. She provides no authority for this novel theory and it should be rejected. See *Cowiche Canyon Conservancy*, 118 Wn.2d at 809 (court does not consider unsupported arguments).

Dillon asserts, without citation to the record, that Thorpe testified that the area where Dillon was injured is neither an “accessible location” nor an “area in which vehicles were left.” App. Br. 15-16. Based on his testimony, she argues that the parking of any vehicles in the “parking area” was improper because (A) the area was needed for emergency access and evacuation and for vehicle maneuverability, (B) there are no permits that “allow[ed] for the location to be used as a parking area,” and (C) parking in that location “encroaches on American with Disabilities Act-required pedestrian routes” and “the customary route used by Bardahl employees to enter and exit the facility for work shifts.” App. Br. 16. These arguments have no merit.

Courts that apply the “parking area” exception analyze how the area is actually used, not how it could or should be used. When the area is actually used as a “parking area,” the exception applies, and a worker injured in that area is not entitled to workers’ compensation coverage. *See Bolden*, 95 Wn. App. at 223 (emphasis added) (“Because he was not performing his work related duties . . . and because the site of the accident was a parking area, [the worker] is not covered.”); *Bergsma*, 33 Wn. App. at 616 (parking area exception applied because worker injured his eye in parking area while returning to work after lunch). When the worker is injured in an area where cars do not park, the exception does not apply.

Marengo, 122 Wn. App. at 800, 803-04 (parking garage stairwell); *Madera*, 104 Wn. App. at 98 (drive-through lane); *Rooney*, 102 Wn. App. at 416, 419 (grassy hill between parking lot and road).

Dillon suggests that the “parking area” in this case consists only of the angled parking spots beneath the exterior wall with green panels, because under her theory they are “permitted.” App. Br. 15-16. The basis for her assertion that only these spots are “permitted” appears to stem from Thorpe’s testimony that there were “four striped stalls” that appear in the public record. BR Thorpe 71; *see also* BR Thorpe 64. Thus, she argues that “[a]ny vehicle parked in a location outside the four permitted parking spaces is not parked in a space that is accessible or in a location where vehicles may be left.” App. Br. 16.

For support, she cites two cases in which courts determined that the “parking area” exception in RCW 51.08.013 did not apply because workers fell adjacent to, and not in, the “parking area.” App. Br. 17 (citing *In re Robert Marengo*, No. 01 14972, 2002 WL 31055962 (Wash. Bd. Ind. Ins. App. July 17, 2002) and *Rooney*, 102 Wn. App. 414). App. Br. 17. She also cites a Board decision, *In re Michael Burnett*, No. 49,588, 1978 WL 182672 (Wash. Bd. Ind. Ins. App. February 8, 1978). App. Br. 17-18. She attempts to analogize these cases, asserting that she

was injured “in a location adjacent to the four permitted employee parking spots in a location that should not be used for parking.” App. Br. 18.

These arguments fail because they disregard the superior court’s unchallenged finding that Bardahl employees actually park in the area where she fell and that the company “*has used the area where Ms. Dillon fell[]* for parking cars since the 1950s.” CP 103 (emphasis added). The record is clear that employees parked not only in the angled parking spots, but also on the asphalt parallel to the boat shop. Exs. 1-8, 12; BR Nicolaysen 116-17, 129; BR Fisk 145; *see* BR Dillon 34. Further, to the extent that Dillon suggests that a “parking area” is limited only to the surface area covered by the actual parking spaces, she is incorrect. She cites no authority for this proposition, and common sense dictates that “parking areas” include space for people to maneuver cars, to enter and exit vehicles, and to walk to their destination.

Furthermore, Dillon’s reliance on *Marengo*, *Rooney*, and *Burnett* are misplaced. In *Rooney*, a worker slipped on a grassy slope between the employee parking lot and an interior access road. 102 Wn. App. at 425. In *Marengo*, a worker fell in a parking garage’s interior stairwell. 122 Wn. App. at 800. Neither a grassy slope nor a stairwell is a “parking area.” As *Marengo* explained, the stairwell was “a means of getting to and leaving the parking area and *not a place where vehicles park.*”

Marengo, 122 Wn. App. at 803 (emphasis added). Here, Dillon fell in a place where vehicles park and not in an area that was a means of getting to or from a parking area.

Burnett supports the conclusion that Dillon fell in a parking area. In that case, the employer had set aside a section of its property to be used as a parking area by its employees. 1978 WL 182672 at *1. The area was blacktopped and fenced and parking stalls were painted on the pavement. *Burnett*, 1978 WL 182672 at *1. The area, however, was an unsatisfactory parking area, and the employer converted much of the area to a storage area. *Burnett*, 1978 WL 182672 at *1. A worker was injured when he hopped the fence into a portion of the blacktopped area that had been converted to storage. *Burnett*, 1978 WL 182672 at *2. The Board rejected the claim that the “parking area” exception applied because the area where the worker was injured was no longer being used for parked cars. *Burnett*, 1978 WL 182672 at *2. The Board emphasized that it was the “use[]” of the area that controlled:

There is nothing magic about a fence that would forever stamp the whole area inside of it as a “parking area” if, in fact, *much of such area was being used for something else*. The particular location where the claimant fell was a storage area on the employer’s premises; *it clearly was not used for parked cars*.

Burnett, 1978 WL 182672 at *2 (emphases added).

Burnett correctly focuses the analysis on the actual use of the area where the worker is injured, i.e. whether it is actually being used to park cars rather than for some other use. *See* 1978 WL 182672 at *2. In *Burnett*, the area where the worker fell was used for storage, not parking cars, so the “parking area” exception did not apply. 1978 WL 182672 at *2. Here, in contrast, the area of injury was used for parking up to 10 cars every day, a practice that dates to the 1950s. CP 103.

In a related argument, Dillon states that the area where she fell “does not fit within the ordinary meaning of a parking lot based upon federal, city, and county codes, safety, and practicality.” App. Br. 11-12. Again, she cites no authority that the Legislature intended local and federal codes, rather than an area’s actual use, to determine whether an area is a “parking area.” This argument relies on Thorpe’s testimony about the need for a multi-use walkway in the area where Dillon fell. But as the industrial appeals judge recognized, simply because the area where Dillon fell was a “logical” place to have a multi-use walkway and fire lane does not mean that it was the only area that could serve this purpose. *See* BR 43 (citing BR Thorpe 76-77). Furthermore, it does not mean that the area was not used for parking. As the uncontested findings demonstrate, the area was used for parking. CP 103. Thus, it was a “parking area” under RCW 51.08.013.

E. The “Hazardous Route” Rule Does Not Apply To Injuries In “Parking Areas”

Dillon also relies on the “hazardous route” rule to argue that the parking area exception does not apply. *See* App. Br. 18-20. Ordinarily to be considered to be in the course of employment, an injury has to occur in areas controlled by the employer (except parking areas). RCW 51.08.013. But the “hazardous route” rule expands the coverage area outside of areas controlled by the employer when a number of specific conditions are met. *See Hamilton v. Dep’t of Labor & Indus.*, 77 Wn.2d 355, 363, 462 P.2d 917 (1969). That rule does not apply to Dillon in this case.

The *Hamilton* Court articulated the “hazardous route” rule. In doing so, the Court explicitly recognized the Legislature’s clear intent “to exclude from coverage injuries occurring to an employee in a parking area maintained either on or off the employer’s premises.” *Hamilton*, 77 Wn.2d at 362 (citing *Olson v. Stern*, 65 Wn.2d 871, 876, 400 P.2d 305 (1965)). Thus, in situations where the injury does not occur in a parking area, a worker is entitled to coverage when the following conditions are met:

immediate to the time of work, while in the process of going *to or from* an employer-designated parking area, lying a relatively short distance outside of what otherwise might be deemed work areas actually controlled by the employer, over and along the only practical, proximate and customarily used route, which route, under given circumstances, contained particular hazards likely to produce injuries and which hazards were not of a kind commonly shared by the general public.

Hamilton, 77 Wn.2d at 363 (emphasis added).

Therefore, with regard to parking areas, the “hazardous route” rule only applies when an employee is “in the process of going *to or from* an employer-designated parking area.” *Hamilton*, 77 Wn.2d at 363 (emphasis added). The “hazardous route” rule does not apply when an employee is actually *in* the “parking area.” *See id.*; accord *Bergsma*, 33 Wn. App. 616-17 (“If *Hamilton* had been injured on Boeing’s parking lot while on her way to work, she would have been precluded from recovery.”) Accordingly, because *Dillon* fell in the parking area, not while going to or from the parking area, she is incorrect that the “hazardous route” rule applies in this case.⁵

⁵ The “parking area” exception does not apply to workers who are injured while performing job-related activities in the parking area at the time of injury. *See Ottesen*, 131 Wn. App. at 316. If an injury occurs in an area where there are both parking and job activities, it is a “mixed-use area” and the Act “covers employees performing job-related activities; it does not cover employees *not* performing job-related activities.” *Ottesen*, 131 Wn. App. at 315-16.

For purposes of her “hazardous route” argument, *Dillon* asserts that the parking area was an area that *Bardahl* uses “for work business because employees empty buckets of water from the plant facility into the drain near the location where she fell.” App. Br. 20. This disregards the superior court’s unchallenged finding that *Bardahl* did not conduct business in the area. CP 103.

In any case, *Dillon* does not appear to argue that she is covered by the Act because she was performing job-related activities at the time of injury. *See* App. Br. 18-20. Nor does the record support such an argument. *Dillon* and *Fisk* testified that she did not have job duties in the area where she fell, and *Dillon* testified that her job duties had ended for the day when she fell. BR *Dillon* 45-46; BR *Fisk* 141.

For the same reason, Dillon's reliance on *In re Brian Thur*, No. 99,12526, 2000 WL 1010998 (Wash. Bd. Ind. Ins. App. May 16, 2000), is misplaced. The worker in that case was not injured in a "parking area," but on a sidewalk between a covered parking lot and the jobsite that other employees customarily used to go to and from the jobsite. *Thur*, 2000 WL 1010998 at *2. Here, however, Dillon fell in the parking area, which the Legislature has expressly precluded from coverage. *See, e.g., Bergsma*, 33 Wn. App. at 613-14.

At least one Board case appears to suggest that the "hazardous route" rule trumps the "parking lot" exception. *See In re Cathy Dickey*, No. 64,560, 1984 WL 547150 (Wash. Bd. Ind. Ins. App. May 30, 1984). In that case, a worker was injured when she fell in an implicitly-designated parking area after exiting her vehicle to go to work. *Dickey*, 1984 WL 547150 at *2-3. The Board applied *Hamilton's* "hazardous route" rule and determined that the Act covered the worker. *Dickey*, 1984 WL 547150 at *2.

To the extent that *Dickey* and other Board cases can be interpreted to mean that the "hazardous route" rule trumps the "parking area"

exception, they are incorrect.⁶ Such an interpretation is contrary to the plain language of RCW 51.08.013 and to numerous cases that state, in accordance with the statute's plain language, that the "parking area" exception does not apply to workers injured in a parking area while going to or from work. *Hamilton*, 77 Wn.2d at 362; *Olson*, 65 Wn.2d at 877; *Ottesen*, 131 Wn. App. at 315-16; *Marengo*, 122 Wn. App. at 800; *Madera*, 104 Wn. App. at 96; *Bolden*, 95 Wn. App. at 223; *Bergsma*, 33 Wn. App. at 613-14.

The plain language in RCW 51.08.013 excludes parking areas, providing for coverage "except parking area[s]." RCW 51.08.013 is not ambiguous; as many courts have recognized, it plainly excludes from coverage injuries occurring in parking areas. *Hamilton*, 77 Wn.2d at 362; *Olson*, 65 Wn.2d at 877; *Ottesen*, 131 Wn. App. at 316; *Marengo*, 122 Wn. App. at 800; *Madera*, 104 Wn. App. at 96; *Bolden*, 95 Wn. App. at 223; *Bergsma*, 33 Wn. App. at 613-14.

Accordingly, in this case, there is no need to defer to an agency opinion because the statute is not ambiguous, but if necessary this Court is

⁶ Another Board case that Dillon cites involving an injury in a parking area determined that the "parking area" exception did not apply because the worker was subject to disciplinary action if she did not park in the designated parking area. *See* App. Br. 14 (citing *In re Deborah Carey*, Nos. 03 13166 & 03 15519, 2004 WL 2359740 (Wash. Bd. Ind. Ins. App. July 12, 2004)). The employer required employees to park in that area because of an agreement it had with the city. *Carey*, 2004 WL 2359740 at *3. Even assuming the hazardous route exception operates in parking areas, *Carey* does not apply because Dillon was not subject to any similar disciplinary measures here.

not bound by Board decisions.⁷ *Lynn v. Dep't of Labor & Indus.*, 130 Wn. App. 829, 836, 125 P.3d 202 (2005). This Court defers to the Department's interpretation of the Industrial Insurance Act over the Board's when there is a conflict between two reasonable interpretations. *See Dep't of Labor & Indus. v. Slauch*, 177 Wn. App. 439, 452, 312 P.3d 676 (2013), *review denied*, 321 P.3d 1206 (2014). This is because the Department is the executive agency charged with administering the Industrial Insurance Act and has the most expertise. *Id.*; *see Port of Seattle v. Pollution Control Hearings Bd.*, 151 Wn.2d 568, 594, 90 P.3d 659 (2004). Here, the Department's interpretation that the Legislature was aware of the hazards in parking areas when it excluded parking areas from coverage in RCW 51.08.013 and that there is no hazardous route exception to RCW 51.08.013 is the only reasonable interpretation of the statute.

The justification for the "hazardous route" rule is that "the hazard of the particular access route involved necessarily became one of the hazards of the employment, and accordingly arose out of and fell within the usual course of the employee's employment." *Hamilton*, 77 Wn.2d at 360. As *Hamilton* recognized, however, in the instance of "parking area[s]," the Legislature decided that the hazards found in the parking area are not to

⁷ To be ambiguous, there would need to be more than one reasonable interpretation of the statute. *Udall*, 159 Wn.2d at 909. There is not.

considered part of the hazards of employment. *See Hamilton*, 77 Wn.2d at 362.

Parking areas can be dangerous by their very nature. There are moving vehicles with pedestrians present, with the possibility of fatal collisions. A parking area's surface may be uneven or slippery from gasoline, oil residue, rain, snow, and ice, with the possibility of falls. It is entirely reasonable to assume that the Legislature understood that there were hazards when it crafted the parking area exclusion.

Contrary to Dillon's argument that the "parking area" exception does not apply because the "hazardous route" rule applies instead, the Legislature did not intend the "hazardous route" exception to trump the parking area exclusion. *See App. Br. 18-20*. As this Court noted, if the worker in *Hamilton* "had been injured on Boeing's parking lot while on her way to work, she would have been precluded from recovery." *Bergsma*, 33 Wn. App. at 614. The "parking area" exception controls when the injury is in a parking area while going to and from work.

F. Even If The "Hazardous Route" Rule Applied, Dillon Is Not Entitled To Coverage Under The Rule Because The Route She Took Was Not The Only Practical Route And Ice Is A Hazard Shared By The Public

Even assuming for the sake of argument that the "hazardous route" rule applies to "parking areas," Dillon cannot establish that the "hazardous

route” rule entitles her to coverage in this case. She contends that the rule applies because she fell just after completing her work shift in an area that Bardahl controlled while walking on a customary route for employees to enter and exit the Bardahl building; because the parking area’s “icy surface” presented “a fall hazard not commonly shared by the general public” that she would not have been exposed to but for her work for Bardahl; and because the area where she fell “was used for the furtherance of the employer’s business when employees used the drain to empty buckets of water from the Bardahl facility.” App. Br. 20.

First, the “hazardous route” rule does not apply because the route Dillon took to leave the building was not the “only practical, proximate, and customarily used route” for Bardahl employees, as *Hamilton* requires. See *Hamilton*, 77 Wn.2d at 363. Dillon focuses her “hazardous route” argument on the fact that “she was following a route customarily used by her and other plant employees for entering and exiting the facility.” App. Br. 20. But, as *Hamilton* makes clear, the route must be the only practical route for employees, not simply a customary one.

Here, Bardahl employees were free to use either of two doors to enter and exit the building. BR Nicolaysen 105-06, 130. Fisk did not order Dillon to use a specific door. BR Fisk 142. Although Dillon customarily used the employee entrance, the main entrance was most direct route out of the

building from her work space. BR Nicolaysen 121-22; BR Fisk 142. Dillon was required to sign in and out on a whiteboard near the main entrance. BR Fisk 144. Therefore, Dillon had another practical route to enter and exit the building.

Second, the “hazardous route” rule also does not apply because the general public shared the hazard. *See Hamilton*, 77 Wn.2d at 363. Ice was present throughout the Pacific Northwest that week. BR Nicolaysen 104. It was not limited to the parking area at the Bardahl plant. *See* BR Nicolaysen 104. Thus, the possibility of slipping on ice was a hazard shared by the public. BR Nicolaysen 104. Dillon suggests that discarded mop water might have frozen near the drain and caused her fall. *See* App. Br. 20. But, as the industrial appeals judge correctly recognized, this is speculative given the pervasive snow and ice conditions at the time. *See* BR 44. Dillon herself testified that she did not know if any water was poured in the drain on the day of her injury. BR Dillon 46.

Because Dillon should not prevail in this appeal, she is not entitled to attorney fees. *See* App. Br. 21. Fees are awarded against the Department only if the worker requesting fees prevails in the action and if the accident fund or medical aid fund is affected by the litigation. RCW

51.52.130; *Pearson v. Dep't of Labor & Indus.*, 164 Wn. App. 426, 445, 262 P.3d 837 (2011).⁸

VII. CONCLUSION

The Legislature has made a determination that workers injured in parking areas while going to and from work cannot receive workers' compensation coverage. RCW 51.08.013. Courts have defined a "parking area" as an area where cars park or may be left. Dillon fell in an area that her employer has used for over 50 years to park cars and where up to 10 cars park on a typical day. Accordingly, she is not entitled to workers' compensation coverage. This Court should affirm the superior court's correct application of RCW 51.08.013's "parking area" exception.

RESPECTFULLY SUBMITTED this 7th day of May, 2014.

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⁸ To support her claim of attorney fees, Dillon quotes the first sentence of RCW 51.52.130. App. Br. 21. However, that sentence addresses only the fixing of attorney fees. It is the fourth sentence of RCW 51.52.130 that addresses when attorney fees are payable. The fourth sentence makes clear that an award of fees requires both that the worker requesting fees prevail in the action and that the accident fund or medical aid fund be affected. RCW 51.52.130; *Pearson*, 164 Wn. App. at 445.

APPENDIX

Board of
Industrial Insurance Appeals
In re: Dillon
Docket No. 114830
Exhibit No. 1
 Adm. 12-6 Date
 REJ.





Board of Appeals
Industrial Insurance Appeals

In re: PILTON

Docket No. 111483D

Exhibit No. # 2

ADM. REL.

12-16-11

Civilian #10

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Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 3

ADM. 12-1-11 REL.

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Board of
Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 4

Adm. 12-1-11 Rel.

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Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114250

Exhibit No. 5

Date 10-11

ADM. REM.

0-11-11



ADD IT TO YOUR MOTOR OIL

Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 114880

Exhibit No. 10

ADM. 12-6-11 RES.

2011/11/11



Board of Industrial Insurance Appeals

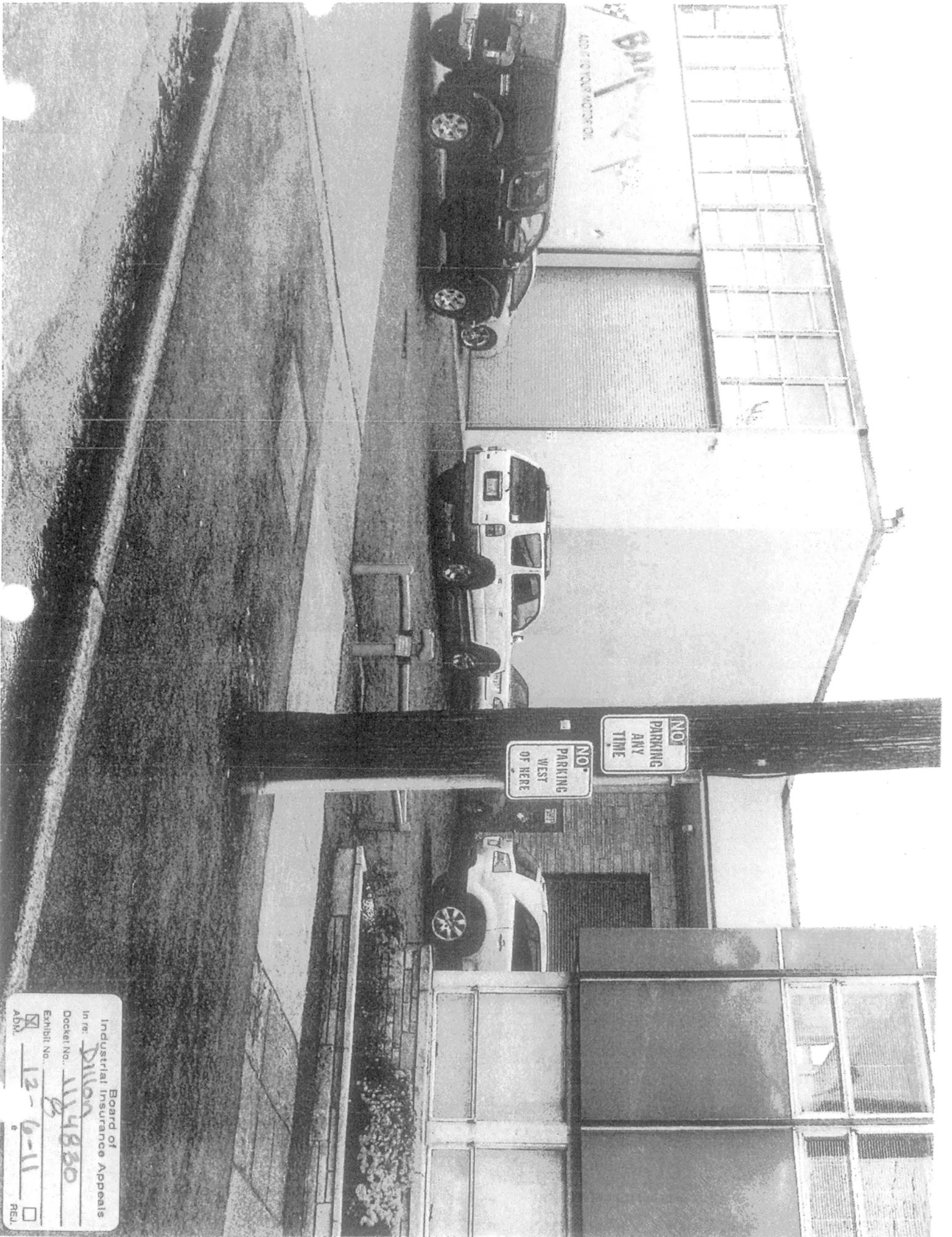
In re: DIV 20

Docket No. 1119830

Exhibit No. 7

ADM. 12-6-11 REG.

9/11/11-117



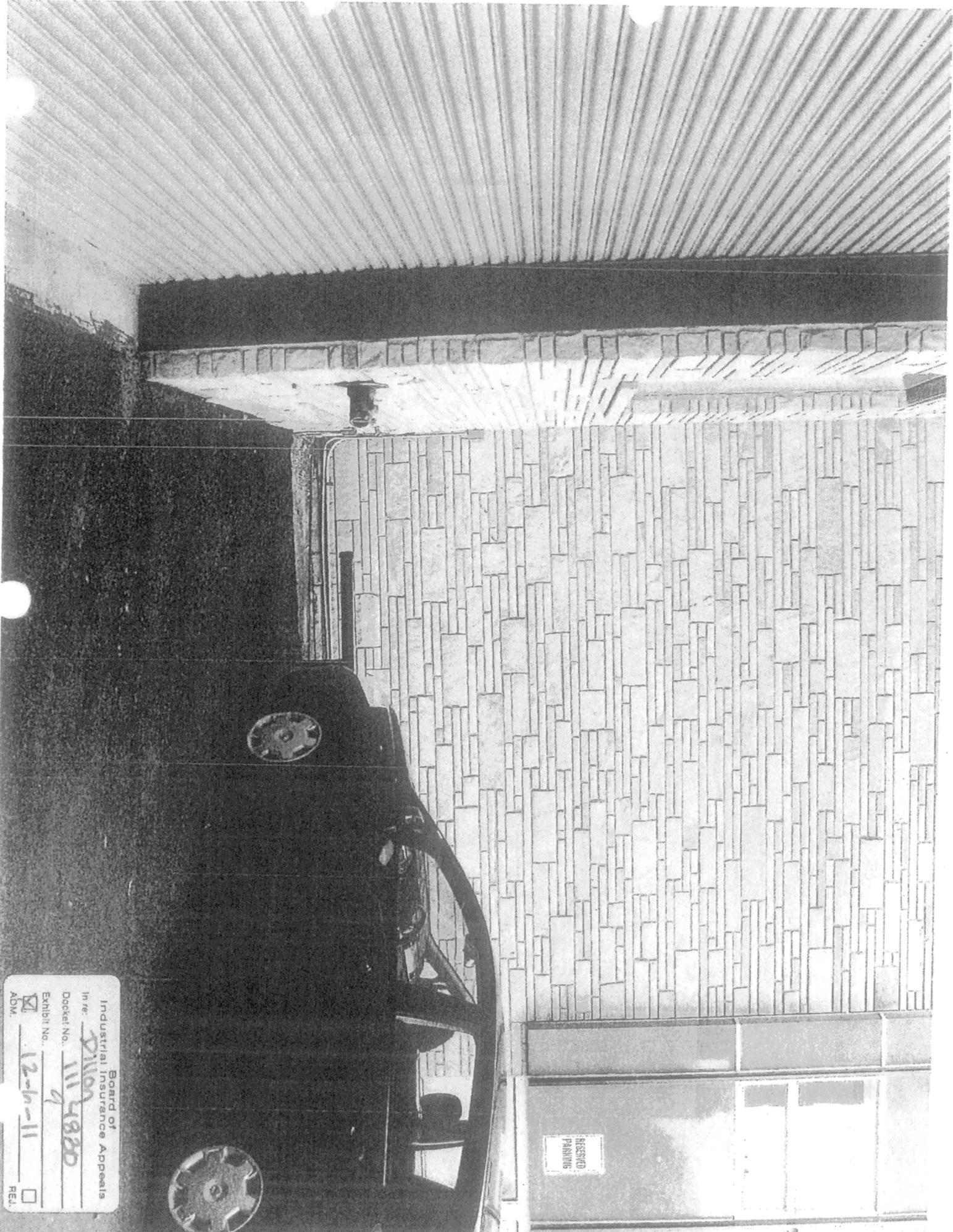
Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 2

Adm. 12-6-11 Recd.



Board of Industrial Insurance Appeals

In re: 21109

Docket No. 111 4820

Exhibit No. 9

ADM. 12-14-11

REL.

RESCUE TRAINING

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BARDHAHL

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Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 1D

ADM. 12-19-11

REG.

Order filed 12-19-11



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Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 11

ADM 12-10-11 to

REL

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Board of
Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 12

ADM. 12-10-11 Date REL.

ORIGINAL COPY

Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1114830

Exhibit No. 74

ADM. Date 12-6-11

REG.

SERVICE FOR RISKY SECTION 1



2011-11-11

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EMPLOYEE PARKING ONLY

Board of
Industrial Insurance Appeals

In re: DANA

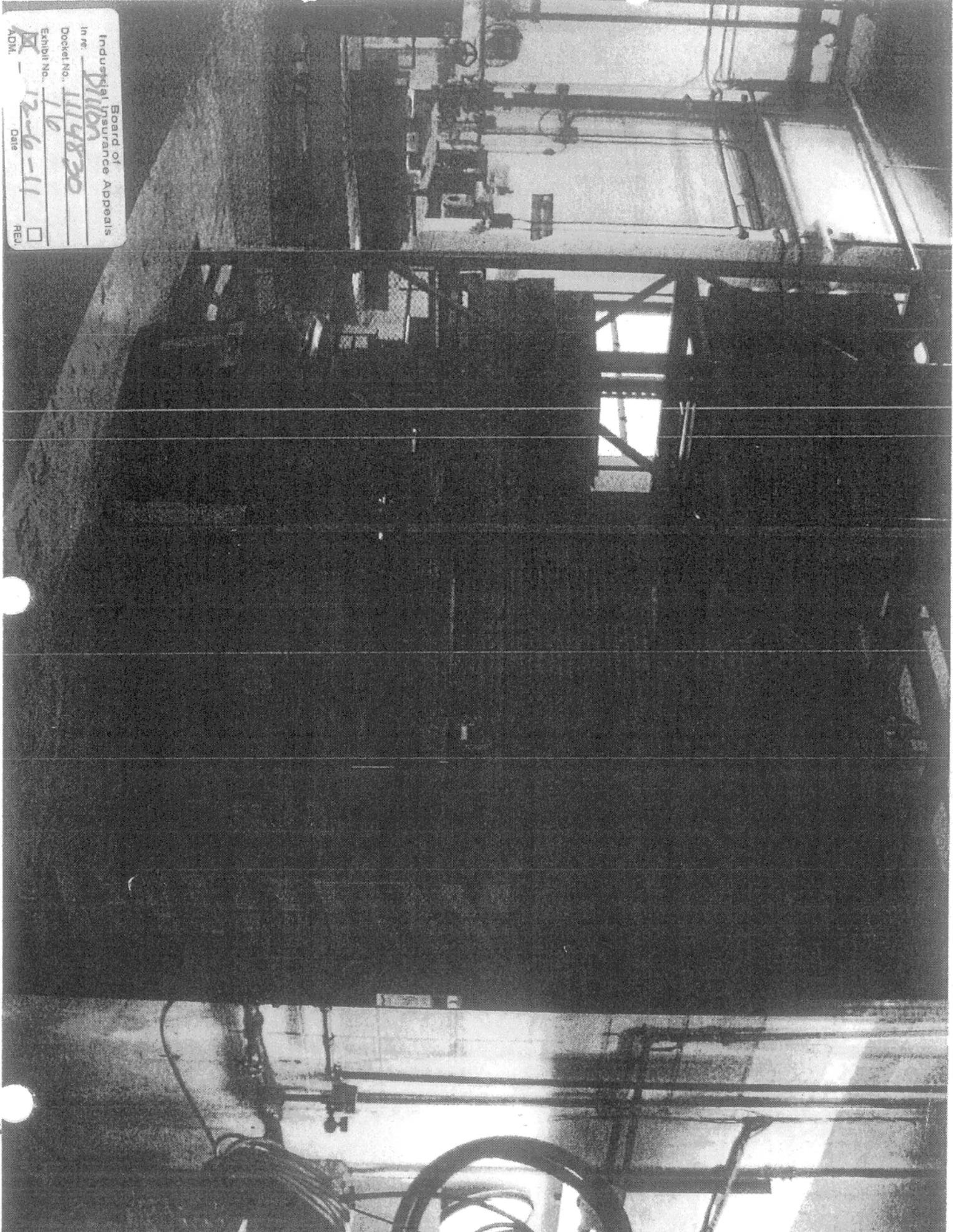
Declar. No. 119930

Exhibit No. 5

Date 12-11

0001111-1712

REG.



Board of Industrial Insurance Appeals

In re: Dillon

Docket No. 1119830

Exhibit No. 16

Date 12-16-11

ADM. REL.

SMITH 247



Board of
Industrial Insurance Appeals

In re: Dilda

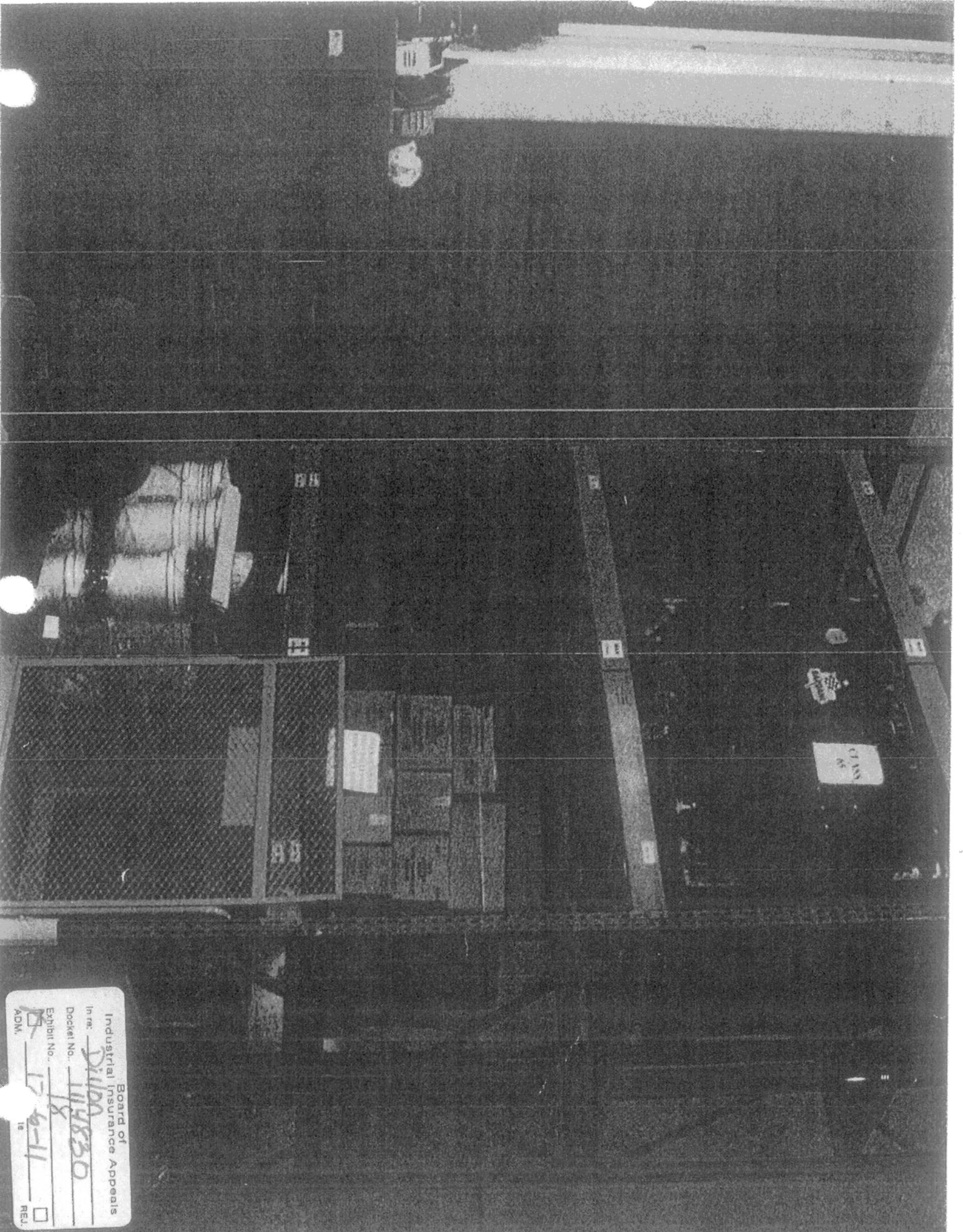
Docket No. 1119530

Exhibit No. 17

ADM. 12-7-11

REJ.

218



Board of
 Industrial Insurance Appeals

In re: DUPA

Docket No. 1119830

Exhibit No. 18

ADM. 17-6-11

RES.