

A Summary of Pennsylvania Supreme Court Decisions Issued April 17, 2007

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REPORTING DECISIONS ISSUED APRIL 17, 2007

PENNSYLVANIA SUPREME COURT DECISIONS

1. AUTOMOBILE INSURANCE

1.1. UM/UIM WAIVERS

- [*Sackett v. Nationwide Mutual Insurance Co.*](#)
No. 8 WAP 2006

Holding: An automobile insurer is required to provide the first named insureds with the opportunity to waive the stacked limits of uninsured and underinsured motorist (UM/UIM) coverage every time an insured purchases UM/UIM coverage by adding

a vehicle to an existing automobile insurance policy. In a somewhat surprising decision, Justice Baldwin (who recently joined the Court), concluded that the Motor Vehicle Financial Responsibility Law, 75 Pa.C.S.A. § 1738, was unambiguous in its requirement that a carrier must obtain a new stacking waiver every time a vehicle is added to a policy. Justices Cappy and Saylor joined the opinion, from which Justices Castille and Eakin issued a [dissenting opinion](#). *Certainly, plaintiffs' attorneys whose clients appeared to have signed valid UM/UIM waivers should review their clients' vehicle ownership histories to determine whether those waivers were valid.*

All decisions are “hyperlinked” to the slip opinion. All you have to do is “click” (or “ctrl + click”) on the title of the case, and if connected to the Internet, your browser will open up the decision for you to read in its entirety.

2. UNEMPLOYMENT COMPENSATION

2.1. REPRESENTATION BEFORE AN UNEMPLOYMENT REFEREE

- [*Harkness v. Unemployment Compensation Board of Review*](#)
No. 112 MAP 2005

Holding: An employer may be represented by an individual who is not an attorney at an unemployment compensation hearing before a Referee of the Unemployment Compensation Board of Review. In its ruling, the Court concluded that a non-lawyer representing an employer is not engaging in the practice of law because of the “public interest” involved. Chief Justice Cappy authored the Judgment of the Court, in which Justice Baer joined. Justice Saylor concurred in the result; Justice Castille filed a [dissenting opinion](#), in which Justice Eakin joined.

3. WORKERS' COMPENSATION

► [**Dowhower v. Workers' Compensation Appeal Board \(Capco Contracting\)**](#)
No. 94 MAP 2006

Holding: In a long-awaited decision authored by Justice Baldwin, the Court has ruled that, when an employer seeks to obtain an automatic reduction of a claimant's benefits from total to partial under Section 511.2(1) of the Workers' Compensation Act, 77 P.S. § 511.2(1), the employer's insurer must request the employee's attendance at an impairment rating evaluation (IRE) during the 60-day period subsequent to the expiration of the employee's receipt of 104 weeks of total disability benefits. Because the language of Section 511.2(1) is mandatory, an insurer may only ***request*** an IRE once the claimant has come into possession of 104 weeks of total disability benefits. Therefore, a request made before the expiration of the 104-week period, as in this case, is premature. Chief Justice Cappy and Justices Saylor and Baer joined in the opinion; Justices Castille filed a [dissenting opinion](#), and Eakin also filed a [dissenting opinion](#).

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