

A Summary of Recent Pennsylvania Appellate Court Decisions

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REPORTING DECISIONS THROUGH JUNE 30, 2014

PENNSYLVANIA APPELLATE COURT DECISIONS

I. CIVIL LITIGATION & PROCEDURE

A. *Medical Record Fees*

- [Wayne M. Chiurazzi Law Inc. v. MRO Corp., No. 1 WAP \(Pa., June 16, 2012\)](#)

- **Holding:** Medical records reproducers may only charge their “actual and reasonable expenses of reproducing the charts or records,” subject to a statutory cap, under Sections 6152(a)(1) and (a)(2)(i) of the Medical Records Act, 42 Pa.C.S.A. S. §§ 6151-6160. Justice Saylor

filed a [concurring and dissenting opinion](#), in which Justice McCaffery joined, asserting that the statute does not limit the amount a third-party records reproducer may charge.

B. *Unfair Trade Practices*

- [Meyer v. Community College of Beaver County, No. 23 WAP 2012 \(Pa., June 16, 2014\)](#)

- **Holding:** The definition of a “person” under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1, includes private entities, but not political subdivisions. Chief Justice Castille filed a [concurring opinion](#) noting that the purpose of the UTPCPL is also to protect consumers against those engaged in “trade or commerce.”

C. *Statute of Repose*

- [Graver v. Foster Wheeler Corp., 2014 PA Super 132 \(Pa.Super., June 26, 2014\)](#)

- **Holding:** Asbestos personal injury claims against construction companies filed more than 12 years after completion of construction are barred by the statute of repose set forth in 42 Pa.C.S.A. §5536.

D. *Civil Procedure*

- [Zurich American Insurance Co. v. Budzowski, 2014 PA Super 135 \(Pa.Super., June 30, 2014\)](#)

- **Holding:** A trial court abuses its discretion under Pa.R.C.P. 213.1(c) by ordering coordination of two claims, which have no common questions of law or fact that are predominant and significant to the litigation.

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 decision for you to read in its entirety. Try it!

E. *Sudden Emergency Doctrine*

□ [*Drew v. Work*, 2014 PA Super 137 \(Pa.Super., June 30, 2014\)](#)

- **Holding:** Under the sudden emergency doctrine, a party may assert as a defense that he or she was confronted with a perilous situation that permitted little or no opportunity to appreciate the situation and act accordingly. Thus, a trial court may consider whether a vehicle is moving or stopped as one factor when deciding whether to instruct the jury on the sudden emergency doctrine.

II. Insurance

A. *Motor Vehicle Insurance- Exclusions*

□ [*Erie Insurance Group v. Catania*, 2014 PA Super 136 \(Pa.Super., June 30, 2014\)](#)

- **Holding:** The “regularly used non-owned vehicle exclusion” applies and precludes a claimant from receiving uninsured motorists benefits when the claimant is injured in a non-owned work vehicle and the policy unambiguously excludes those injuries.

III. WORKERS’ COMPENSATION

A. *Course & Scope of Employment*

□ [*Ace Wire Spring and Form Co. v. Workers’ Compensation Appeal Board \(Walshesky\)*, No 1916 C.D. 2013 \(Pa.Cmwlt., June 10, 2014\)](#)

- **Holding:** Arriving at or leaving an employee’s work location is a necessary part of an employee’s employment, and is generally considered to be furthering the employer’s interests. An employee injured during this time period, albeit before or after the work day has begun or ended, is entitled to workers’ compensation benefits, provided the injury occurred at a reasonable time before or after the work period.

B. *Death Benefits*

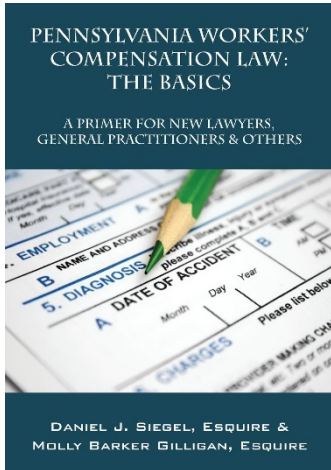
□ [*Cooney v. Workers’ Compensation Appeal Board \(Patterson UTI, Inc.\)*, No. 1681 C.D. 2013 \(Pa.Cmwlt., June 12, 2014\)](#)

- **Holding:** A claimant is not entitled to widow’s death benefits under Section 307(3) of the Workers’ Compensation Act, 77 P.S. § 561, when no valid common-law marriage exists under Section 1103 of the Marriage Law, 23 Pa. C.S. § 1103. A common law marriage does not exist when the parties began cohabiting and holding themselves out as husband and wife in a state that does not recognize common-law marriage, and then moved to Pennsylvania after common-law marriage was abolished.

C. *Subrogation*

□ [*Evans v. Workers’ Compensation Appeal Board \(Highway Equipment and Supply Co.\)*, No. 2252 C.D. 2013 \(Pa.Cmwlt., June 30, 2014\)](#)

- **Holding:** When a medical insurance company has a validly-preserved subrogation lien, any resulting reimbursed medical expenses should be paid to the insurer, not directly to the claimant.



The Pennsylvania Workers' Compensation Book

By Daniel J. Siegel, Esquire
& Molly Barker Gilligan, Esquire

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