

A Summary of Recent Pennsylvania Appellate Court Decisions

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REPORTING DECISIONS THROUGH SEPTEMBER 30, 2014

PENNSYLVANIA APPELLATE COURT DECISIONS

I. Civil Litigation and Procedure

A. *Appeal Deadlines*

- [*Gardner v. Consolidated Rail Corp.*, 2014 PA Super 193 \(September 9, 2014\)](#)

- **Holding:** An appeal must be taken within 30 days of the date of the order subject to appeal. The mere filing of a motion for reconsideration is insufficient to toll the appeal period. The 30 day appeal period is tolled only by a timely order expressly granting reconsideration of the final appealable order.

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!

II. Substantive Law

A. *Motor Vehicle Insurance Policies - Household Exclusion*

- [*Clarke v. MMG Insurance Co.*, 2014 PA Super 192 \(September 4, 2014\)](#)

- **Holding:** A “household exclusion” clause in a motor vehicle insurance policy, in which only the underinsured motorist provision does not contain the restriction that the vehicle in which the claimant was insured must be “insured for this coverage,” does not preclude a claim for injuries sustained in a vehicle not insured under the policy. [Read the dissent.](#)

B. *Premises Liability - Notice of Dangerous Condition*

- [*Young v. Prizm Asset Management Co.*, 2014 PA Super 195 \(September 9, 2014\)](#)

- **Holding:** Under Section 344 of the *Restatement of Torts 2d*, a property owner that holds its property open to the public for business purposes may be held liable for harm suffered by business invitees when the owner fails to discover that such acts are being done or likely to be done, or fails to give adequate warning to enable invitees to avoid or protect themselves against the harm. If an owner’s past experience is such that he should reasonably anticipate careless or criminal conduct on the part of third persons, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.

III. Workers' Compensation

A. *Pension Offset*

- [*Stepp v. Worker's Compensation Appeal Board \(Fairpoint Communications, Inc.\)*](#), No. 2270 C.D. 2013 (Pa.Cmwlth., September 10, 2014)
 - **Holding:** An employer may take an offset against a claimant's workers' compensation benefits under Section 204(a) of the Workers' Compensation Act, 77 P.S. § 71(a), for pension benefits funded by its wholly-owned subsidiary.

B. *Medical Care - Healthcare Provider License*

- [*Babu v. Worker's Compensation Appeal Board \(Temple Continuing Care Center\)*](#), No. 166 C.D. 2014 (Pa.Cmwlth., September 15, 2014)
 - **Holding:** The services of a health care provider, who is not licensed or otherwise authorized by the Commonwealth to provide health services, are not reimbursable under Section 109 of the Workers' Compensation Act, 77 P.S. § 531(1)(i), even if the services are prescribed by a health care provider. Of note, Section 306(f.1)(1) of the Act, provides that an employer shall pay for care rendered by physicians or other health care providers. Section 109 then defines "health care provider" as "any person, corporation, facility or institution licensed or otherwise authorized by the Commonwealth to provide health care services, including, but not limited to, any physician, coordinated care organization, hospital, health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, psychologist, chiropractor or pharmacist and an officer, employe or agent of such person acting in the course and scope of employment or agency related to health care services."

PENNSYLVANIA WORKERS'
COMPENSATION LAW:
THE BASICS

A PRIMER FOR NEW LAWYERS,
GENERAL PRACTITIONERS & OTHERS



DANIEL J. SIEGEL, ESQUIRE &
MOLLY BARKER GILLIGAN, ESQUIRE

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