

# A Summary of Recent Pennsylvania Appellate Court Decisions

By Daniel J. Siegel, Esquire

LAW OFFICES OF DANIEL J. SIEGEL, LLC

66 West Eagle Road • Suite 1 • Havertown, PA 19083-1425  
(610) 446-3457 • Fax (484) 636-3993 • E-mail [dsiegel@danieljsiegel.com](mailto:dsiegel@danieljsiegel.com)

REPORTING DECISIONS THROUGH FEBRUARY 28, 2015

## PENNSYLVANIA APPELLATE COURT DECISIONS

### I. Civil Procedure

#### A. *Interlocutory Orders*

- [\*Angelichio v. Myers\*, 2015 PA Super 37 \(Pa. Super., February 18, 2015\)](#)
  - **Holding:** Under Pa.R.A.P. 311, an interlocutory appeal may be taken as of right from an order that refuses to open, vacate, or strike off a judgment. Because a sanction order entering judgment on the issue of liability pursuant to Pa.R.C.P. 4019(c)(3) is not subject to a petition to open, however, the order is interlocutory and no appeal may be taken as of right.

#### B. *Spoliation - Sanctions*

- [\*Rodriguez v. Kravco Simon Co.\*, 2015 PA Super 41 \(Pa. Super., February 20, 2015\)](#)
  - **Holding:** A trial court erred by granting a motion for summary judgment when there existed a question whether the defendant destroyed potentially relevant evidence. Because the failure to produce such evidence casts a doubt as to the existence of a material fact, summary judgment should not have been granted.

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!

#### C. *Venue - Dragonetti Actions*

- [\*Baylson v. Genetics & IVF Institute\*, 2015 PA Super 27 \(Pa. Super., February 9, 2015\)](#)
  - **Holding:** In a wrongful use of civil proceedings case (Dragonetti Act, 42 Pa.C.S. §§ 8351-8354), venue is proper in the county where the underlying litigation took place, as well as in any other county permitted by the Pennsylvania Rules of Civil Procedure.

### II. Substantive Law

#### A. *Jury Awards - Damages*

- [\*Kindermann v. Cunningham\*, 2015 PA Super 30 \(Pa. Super., February 11, 2015\)](#)
  - **Holding:** When a substantial dispute exists as to liability, such that a low verdict might indicate that the jury compromised the liability issue with the amount of damages awarded, a trial court abuses its discretion by granting a new trial on damages.

## B. *Legal Malpractice - Standing*

### □ [\*Estate of Agnew v. Ross\*, 2015 PA Super 22 \(Pa. Super., February 2, 2015\)](#)

- **Holding:** Applying *Guy v. Liederbach*, 459 A.2d 744 (Pa. 1983), the Court affirmed that beneficiaries not named in a will may have standing to pursue a breach of contract action against an attorney. Therefore, although naming a beneficiary in a will or contract provides a clear manifestation of intent, thus precluding summary judgment, failure to name a beneficiary does not automatically require the entry of summary judgment if the beneficiary can satisfy the two-part test in Section 302 of the *Restatement (Second) of Contracts*, i.e., (1) recognition of the beneficiary's right must be "appropriate to effectuate the intention of the parties," and (2) the performance must "satisfy an obligation of the promisee to pay money to the beneficiary" or "the circumstances indicate that promisee intends to give the beneficiary the benefits of the promised performance."

## III. Workers' Compensation

### A. *Abnormal Working Conditions - Psychiatric Injuries*

### □ [\*Murphy v. Workers' Compensation Appeal Board \(Ace Check Cashing, Inc.\)\*, No. 1604 C.D. 2013 \(Pa. Cmwlth. en banc, February 20, 2015\)](#)

- **Holding:** In order to determine whether a purely psychiatric injury is compensable, a Workers' Compensation Judge must consider whether the underlying events represented a singular, extraordinary event or was a normal working condition. In this case, the Court remanded the claim for the WCJ to consider whether an armed robbery in a check cashing agency met the standard set forth by the Supreme Court in *Payes v. Workers' Compensation Appeal Board (PA State Police)*, 79 A.3d 543 (Pa. 2013).

### B. *Impairment Rating Evaluations - Physician Qualifications*

### □ [\*IA Construction Corp. v. Workers' Compensation Appeal Board \(Rhodes\)\*, No. 2151 C.D. 2013 \(Pa. Cmwlth., February 19, 2015\)](#)

- **Holding:** The determination whether a physician is qualified to perform an Impairment Rating Evaluation is governed by Section 306(a.2)(1) of the Workers' Compensation Act, 77 P.S. § 511.21(1). Thus, a Workers' Compensation Judge may not impose greater qualifications upon a physician performing an IRE than those set forth in the Act.

### C. *Suspension of Benefits*

### □ [\*Donahay v. Workers' Compensation Appeal Board \(Skills of Central PA, Inc.\)\*, No. 869 C.D. 2014 \(Pa. Cmwlth., February 4, 2015\)](#)

- **Holding:** A difference between post-injury and pre-injury wages does not automatically entitle a claimant to partial disability benefits. Thus, when a claimant's loss of earnings is attributable to economic conditions, rather than the work-related injury, the claimant is not entitled to partial disability benefits.

PENNSYLVANIA WORKERS'  
COMPENSATION LAW:  
THE BASICS

A PRIMER FOR NEW LAWYERS,  
GENERAL PRACTITIONERS & OTHERS



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

# The Pennsylvania Workers' Compensation Book

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

The only resource of its kind, *Pennsylvania Workers' Compensation Law: The Basics: A Primer for New Lawyers, General Practitioners & Others*, is an up-to-date and easy-to-understand guide to Pennsylvania workers' compensation law,

practice and procedure. Designed as a desk reference for attorneys, paralegals, injured workers, employers, claims adjusters, self-insured employers and vocational rehabilitation workers, the book includes:

- The latest versions of the Pennsylvania Workers' Compensation Act and Regulations
- A detailed explanation of the Pennsylvania statutes and regulations
- Helpful tips for anyone seeking to better understand Pennsylvania's workers' compensation system

**Buy your copy today! Only \$49.95**

- [Order Direct from the Author by completing this Order Form](#)
- Call 1-610-446-3457
- Email [wcbook@danieljsiegel.com](mailto:wcbook@danieljsiegel.com)
- Visit [www.outskirtspress.com](http://www.outskirtspress.com)

*Also available from [Amazon.com](http://Amazon.com) in traditional and [Kindle](#) editions*