

# 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@danielsiegel.com](mailto:dsiegel@danielsiegel.com)

REPORTING DECISIONS THROUGH OCTOBER 31, 2015

## PENNSYLVANIA APPELLATE COURT DECISIONS

### I. Civil Litigation

#### A. Arbitration Agreements - Enforceability

- [Wert v. Manorcare of Carlisle PA, LLC, No. 62 MAP 2014 \(Pa., October 27, 2015\)](#)

➤ **Holding:** When a written contract is clear and unambiguous, the parties' intent is contained in the writing itself. Consistent with *Stewart v. GGNSC-Canonsburg, L.P.*, 9 A.3d 215 (Pa.Super. 2010), which the Court specifically

declined to overrule, an Arbitration Agreement is unenforceable if it relies, as part of an essential term, upon National Arbitration Forum (NAF) Code procedures that were void with respect to consumer arbitration disputes. Chief Justice Saylor filed a [concurring opinion](#). Justice Eakin filed a [dissenting opinion](#). Justice Baer filed a [dissenting opinion](#).

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!

#### B. Defamation

- [Castellani v. The Scranton Times, L.P., No. 117 MAP 2014 \(Pa., October 27, 2015\)](#)

➤ **Holding:** Republication of a potentially defamatory statement after receiving notice of the potential falsity of the initial publication, including notice contained in a judicial opinion, is relevant to a determination of actual malice in the initial publication as well as the republication. Chief Justice Saylor filed a [concurring and dissenting opinion](#). Justice Eakin filed a [concurring and dissenting opinion](#).

#### C. Evidence - Admissibility

- [Polett v. Public Communications, Inc., No. 18 EAP 2014 \(Pa., October 8, 2015\)](#)

➤ **Holding:** Pursuant to Pa.R.Evid. 403, a party seeking to impeach a witness on the basis of an agreement, to which the witness is a signatory, must be permitted to convey to the factfinder/jury at least the existence of the reason for the potential bias on the part of the witness. If the probative value of the agreement is limited, however, and would provide no additional factual information or basis for impeaching the credibility of the witness, the evidence should be excluded. Justice Eakin filed a [dissenting opinion](#) in which Chief Justice Saylor joined.

#### D. *MCare Act - Statute of Limitations*

☐ [\*Dubose v. Quinlan\*, 2015 PA Super 223 \(Pa.Super., October 23, 2015\)](#)

- **Holding:** Under the MCare Act, 40 P.S. § 1303.101, *et seq.*, wrongful death and survival actions must be brought within two years of death.

#### E. *Premises Liability - Foreseeability - Summary Judgment*

☐ [\*Truax v. Roulhac\*, 2015 PA Super 217 \(Pa.Super. \*en banc\*, October 7, 2015\)](#)

- **Holding:** A landowner has a duty to exercise reasonable care to protect its business invitees from all harmful third party conduct that may be reasonably anticipated because of the place or character of the business, or the landowner's prior experience. Thus, if it was reasonably foreseeable that a vehicle operated by a third party would encroach the sidewalk, then the landowner has a duty to exercise reasonable care to protect its business invitees from that harm, and summary judgment should be denied.

### II. Workers' Compensation

#### A. *Burden of Proof - Medical Only NCP*

☐ [\*Ingrassia v. Workers' Compensation Appeal Board \(Universal Health Services, Inc.\)\*, No. 1211 C.D. 2014 \(Pa.Cmwlt., October 26, 2015\)](#)

- **Holding:** When an employer accepts a claim by issuing a Medical Only Notice of Compensation Payable, a claimant must file a Claim Petition if he or she seeks wage loss/disability benefits.

#### B. *Course & Scope of Employment*

☐ [\*O'Rourke v. Workers' Compensation Appeal Board \(Gartland\)\*, No. 27 WAP 2014 \(Pa., October 27, 2015\)](#)

- **Holding:** A worker is entitled to benefits under the Workers' Compensation Act if either (1) the employee is injured in furtherance of the employer's business or affairs, or (2) the employee is (a) injured on premises occupied or under the control of the employer, (b) required by the nature of the employment to be present on the premises, and (c) injured by the condition of the premises or by operation of the employer's business or affairs. Consequently, a paid caregiver who is stabbed by her son in the middle of the night of the night while sleeping in her bedroom in her own home is not entitled to benefits under the Act. Justice Todd filed a [dissenting opinion](#).

#### C. *Employer Status - Franchises*

☐ [\*Saladworks, L.L.C. v. Workers' Compensation Appeal Board \(Gaudio and Uninsured Employers Guaranty Fund\)\*, No. 1789 C.D. 2014 \(Pa.Cmwlt., October 6, 2015\)](#)

- **Holding:** A franchisee in the business of selling franchises is not a statutory employer under Section 302(a) of the Workers' Compensation Act, 77 P.S. § 461.

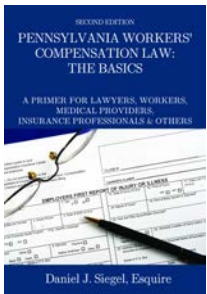
#### D. *Statute of Limitations - Medical Only NCP*

☐ [\*Sloane v. Workers' Compensation Appeal Board \(Children's Hospital of Philadelphia\)\*, No. 1213 C.D. 2014 \(Pa.Cmwlt., October 1, 2015\)](#)

- **Holding:** When an employer accepts a claim by issuing a Medical Only Notice of Compensation Payable, a claimant must file a Claim Petition seeking wage loss/disability benefits within three years of the date of the injury pursuant to Section 315 of the Workers' Compensation Act, 77 P.S. § 602. The payment of medical benefits does not toll the statute of limitations because medical benefits are not payments "in lieu of workers' compensation benefits" under Section 315.

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