

A Summary of Recent Pennsylvania Appellate Court Decisions By Daniel J. Siegel, Esquire

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REPORTING DECISIONS THROUGH FEBRUARY 29, 2016

PENNSYLVANIA APPELLATE COURT DECISIONS

I. Substantive Law

A. Damages

- [*Gold v. Rosen*, 2016 PA Super 44, \(Pa.Super., February 19, 2016\)](#)

➤ **Holding:** A jury may find that a plaintiff suffered injuries, and that the defendant's negligence was a substantial factor in bringing about at least some of the injuries, and decline to award damages, because the injuries were incidental or non-compensable. The Court noted "that not all injuries are serious enough to warrant compensation, even though there may be some pain."

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. Dog Bites

- [*Franciscus v. Sevdik*, 2016 PA Super 52 \(Pa.Super., February 29, 2016\)](#)

➤ **Holding:** When the owner of a dog (1) has a sign on his residence warning visitors of the dog, (2) is aware that the 60 to 70 pound dog has a tendency to jump on people when excited, (3) directs the pet care facility caring for the dog to use a muzzle when walking the dog, and (4) advises the pet care facility to avoid walking the dog on routes where there are children and dogs, there is sufficient evidence that the dog has a dangerous propensity to jump on people, and possibly bite, if unmuzzled, to preclude the entry of summary judgment.

II. Workers' Compensation

A. Collateral Estoppel

- [*Lindemuth v. Workers' Compensation Appeal Board \(Strishock Coal Co.\)*, No. 812 C.D. 2015 \(Pa.Cmwlth., February 24, 2016\)](#)

➤ **Holding:** When the issue before the Workers' Compensation Judge is different from an issue previously decided by a WCJ, a claimant is not barred by collateral estoppel from raising the issue in subsequent litigation.

III. Allocatur Granted

The Pennsylvania Supreme Court has granted an appeal in the following matter for the issue stated:

- [*Duffey v. Workers' Compensation Appeal Board \(Trola-Dyne, Inc.\)*, No. 568 MAL 2015 \(Pa., February 3, 2016\)](#)

➤ Did the Commonwealth Court err in concluding that an Impairment Rating Evaluation (IRE), which is designed to rate the percentage of disability two years out from a work injury, was valid where the IRE only considered the injuries listed on the notice of compensation payable issued at the time of injury, and did not consider additional injuries that subsequently arose and were known at the time of the IRE but not yet formally added to the description of injury?

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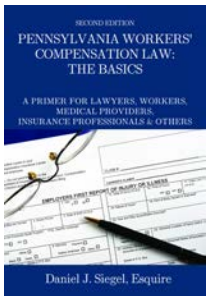
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