

A Summary of Recent Pennsylvania Appellate Court Decisions & Other Items of Interest

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

REPORTING DECISIONS THROUGH JUNE 3, 2016

PENNSYLVANIA APPELLATE COURT DECISIONS

I. Civil Procedure

A. *Summary Judgment in Consolidated Actions*

□ [Malanchuk v. Tsimura, No. 22 EAP \(Pa., May 25, 2016\)](#)

- Holding: Complete consolidation (or the merger or fusion of actions) does not occur absent a complete identity of parties and claims; separate actions lacking such overlap retain their separate identities and require distinct judgments. These principles pertain equally to appealability determinations, and continue to operate even if an order exists purporting to consolidate the actions “for all purposes.” Justice Baer filed a [concurring 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!

II. Workers' Compensation

A. *Evidence - Credibility (Also discusses Impairment Rating Evaluations)*

□ [IA Construction Corp. and Liberty Mutual Insurance Co. v. WCAB \(Rhodes\), No. 18 WAP 2015 \(Pa., May 25, 2016\)](#)

- Holding: A physician's opinions pertaining to Impairment Rating Evaluations (IRE) conducted under Section 306(a.2)(6) of the Act, 77 P.S. § 511.2, are subject to vetting through the “traditional administrative process.” Thus, a Workers' Compensation Judge is free to accept or reject a party's evidence, including an employer's underdeveloped, out-of-specialty opinion in an IRE about the degree of impairment associated with an injury. The Court did not implement a specialized approach to IREs, adding that “As with other instances of experimental legislation, conceptual and other difficulties with the impairment rating scheme have become evident over time.”

U.S. SUPREME COURT DECISION

I. EEOC Claims – Constructive Discharge

A. *Statute of Limitations - Constructive Discharge Claims*

☐ [Green v. Brennan, No. 14-613 \(U.S., May 23, 2016\)](#)

- A constructive-discharge claim accrues – and the limitations period begins to run – when the employee gives notice of his resignation, not on the effective date of the resignation.

NEW JERSEY GUIDANCE TO THE BAR

I. Other Item of Interest

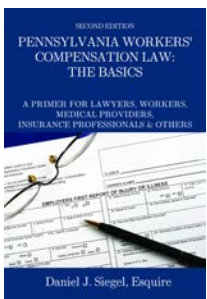
A. *New Jersey Clarifies Rule on Attorney Advertising of Awards Such as Super Lawyers*

☐ [Guidance Notice \(May 4, 2016\)](#)

- The New Jersey Supreme Court Committee on Attorney Advertising reminded attorneys “that they may refer to such awards, honors, and accolades only when the basis for the comparison can be verified and the organization has made adequate inquiry into the fitness of the individual lawyer. Further, whenever permissible references to comparative awards, honors, and accolades are made, Rule of Professional Conduct 7.1 requires that additional language be displayed to provide explanation and context.”

The Only Desk Reference with the Entire Workers' Compensation Act and the Most Current Regulations

The Pennsylvania Workers' Compensation Book (*Second Edition*) By Daniel J. Siegel, Esquire



The only resource of its kind, *Pennsylvania Workers' Compensation Law: The Basics: A Primer for Lawyers, Workers, Medical Professionals & 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:

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