

A Summary of Recent Pennsylvania Appellate Court Decisions

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REPORTING DECISIONS THROUGH OCTOBER 31, 2016

PENNSYLVANIA APPELLATE COURT DECISIONS

I. Substantive Law

A. *Pennsylvania Unfair Trade Practices & Consumer Protection Law*

☐ [*Kirwin v. Sussman Automotive*, 2016 PA Super 222 \(Oct. 7, 2016\)](#)

- **Holding:** A claim under the catchall provision of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL), 73 P.S. § 201.1, *et seq.*, requires a showing of justifiable reliance, which is ordinarily a question of fact.

B. *Wage Payment & Collection Law*

☐ [*Siciliano v. Mueller*, 2016 PA Super 229 \(Oct. 21, 2016\)](#)

- **Holding:** The mandatory payment of wages by payroll debit card violates Section 260.3 of the Pennsylvania Wage Payment and Collection Law (WPCL), 43 P.S. § 260.3, which requires that “wages shall be paid in lawful money of the United States or check.”

C. *Employer/Statutory Immunity*

☐ [*Nagle v. TrueBlue, Inc.*, No. 247 C.D. 2016 \(Pa. Cmwlth., Oct. 24, 2016\)](#)

- **Holding:** An employee may have more than one employer, both of whom are entitled to immunity under Section 303(a) of the Workers’ Compensation Act, 77 P.S. § 481(a).

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. *Heart and Lung Act - Subrogation*

- [*Pennsylvania State Police v. WCAB \(Bushta\)*, No. 2426 C.D. 2015 \(Pa. Cmwlth., Oct. 26, 2016\)](#)
 - **Holding:** An employer is not entitled to subrogation from claimant's third-party recovery under the Heart and Lung Act, 53 P.S. §§ 637-638.

B. *Joinder Claims - Timeliness*

- [*Jackson v. WCAB \(Radnor School District\)*, No. 228 C.D. 2016 \(Pa. Cmwlth., Oct. 19, 2016\)](#)
 - **Holding:** Pursuant to 34 Pa. Code § 131.36, a joinder petition in a workers' compensation matter must be filed no later than 20 days after the first hearing at which evidence regarding the reason for joinder is sought. The 20-day time period begins when evidence is presented *regarding* the reason for which joinder is sought, not evidence *establishing* a reason for requesting joinder.

C. *Occupation Diseases for Firefighters - Presumption of Compensability*

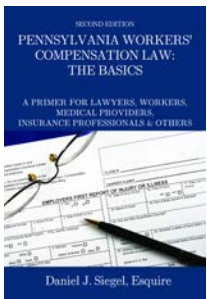
- [*Demchenko v. WCAB \(City of Philadelphia\)*, No. 2164 C.D. 2015 \(Pa. Cmwlth. Oct. 26, 2016\)](#)
 - **Holding:** The presumption of compensability in Section 301(f) of the Workers' Compensation Act, 77 P.S. § 414, does not apply to a firefighter/claimant who does not demonstrate that his cancer was an occupational disease under Section 108(r), which required proof that the Group 1 carcinogens to which he was exposed have been shown to cause the type of cancer for which he has been diagnosed.

D. *Occupation Diseases for Firefighters - Statute of Limitations*

- [*Fargo v. WCAB \(City of Philadelphia\)*, No. 2239 C.D. 2015 \(Pa. Cmwlth., Oct. 11, 2016\)](#)
 - **Holding:** Section 301(f) of the Workers' Compensation Act, 77 P.S. § 414, sets forth a two-tiered limitations period for Section 108(r) claims based upon exposure to a known Group 1 carcinogen. First, a claimant must file the claim within 300 weeks of the last day of work with exposure to a known Group 1 carcinogen; if the claimant fails to do so, he is not foreclosed from bringing a claim by Section 301(f), but loses the statutory presumption of compensability under Sections 301(e) and 301(f). If the claimant does not file the claim within 600 weeks of his last workplace exposure to the hazard, he is foreclosed from bringing the claim in its entirety.

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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