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WORKERS' COMPENSATION ONE-LINERS JANUARY, 2004

IRE:

Walmart Inc. v. WCAB,
837 A.2d 661 (Pa. Commw.
2003)

Commonwealth Court reverses WCAB holding IRE requests was timely when made within 60 days of claimant's receipt of 104 weeks of benefits where time for payment was extended by supersedeas on employer's appeal.

Review:

Mahon v. WCAB,
835 A.2d 420 (Pa. Commw.
2003)

Commonwealth Court rules employer is not estopped from challenging compensability where it issued NCP, instead of TNCP, and subsequently received information that claimant was intoxicated at the time of the injury.

Subrogation:

Schmidt v. WCAB,
835 A.2d 877 (Pa. Commw. Ct.)

Neither PIGA statute nor public policy defeat employer's right to subrogation; PIGA statute is not precise in including WC benefits as part of exhaustion requirement and preclusion of subrogation would effectuate a double recovery for claimant.

Brubaker Excavating v. WCAB,
835 A.2d 1273 (Pa. 2003)

Supreme Court holds employer is not entitled to subrogation against proceeds of claimant's ADA suit recovery against subsequent employer, despite employer's increased liability caused by a wrongful termination, as second employer's actions did not cause claimant's injury.

Supersedeas Fund:

SWIF v. WCAB,
837 A.2d 697 (Pa. Commw. Ct.
2003)

Again signaling supersedeas fund reimbursement criteria will be strictly scrutinized, Commonwealth Court holds SWIF is not entitled to reimbursement despite having been erroneously ordered to pay compensation, because statute permitting reimbursement requires that claimant not be entitled to benefits, not just that the applicant should not have had to pay the benefits; recourse was to pursue reimbursement against liable party.

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