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**WORKERS' COMPENSATION
ONE-LINERS
MARCH 2002**

ATTORNEY'S FEES:

Larry Pitt & Associates,
P.C. vs. Butler,
785 A.2d 1092

Commonwealth's preliminary objections sustained to claimant's counsel's petition to review which sought to have portion of WC Act requiring attorney's fee approval declared unconstitutional with Court finding administrative remedies had not been exhausted; question of constitutionality kept open as claim for 33 1/3 percent fee on compromise and release works through the system.

Cardwell vs. WCAB,
786 A.2d 1014

Commonwealth Court affirms WCJ and WCAB finding claimant's counsel, Larry Pitt, failed to show good cause to increase attorney's fee on compromise and release from 20 percent to 33 1/3 percent; look for constitutional challenge to be renewed.

PENALTY:

Candito v. WCAB,
785 A.2d 1106

Commonwealth Court revisits time line for payment of award, finding WC Judge did not abuse discretion in failing to impose a penalty on employer when payment was not made within 30 days of Order, but where employer had properly and timely requested a supersedeas ruling which was ultimately granted; to hold otherwise under the circumstances would render right to request supersedeas a nullity.

STATUTE:

OF LIMITATIONS:
Schreffler v. WCAB,
788 A.2d 963

PA Supreme Court affirms Commonwealth Court holding that payment of medical bills may toll three year statute of limitations, but clarifies that claimant must prove employer intended the payments to be in lieu of compensation; a rebuttable presumption is given to claimant unless the claimant is totally disabled as a result of a different compensable injury in which case claimant must produce evidence of employer's intention to compensate him for the injury at issue.

East v. WCAB,
786 A. 2d 1044

Holding that WC proceedings are "civil actions," that is, non-criminal proceedings, Commonwealth Court reverses WCAB such that Minority Tolling Act applies to toll statute of limitations on petition brought by alleged son of decedent 13 years after death.

TERMINATION:

GA & FC Wagman, Inc. v.
WCAB, 785 A.2d 1087

Commonwealth Court holds employer does not satisfy burden of proof on termination petition where medical evidence is inconsistent with injury recognized on NCP as NCP is binding and valid for injury description absent petition to review.

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