

Jane A. Lombard
Attorney at Law

1601 Market Street
34th Floor
Philadelphia, PA 19103-2316
phone 215-299-4279
fax 215-299-4301
e-mail jlombard@scdlaw.com
web www.scdlaw.com

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

IMPAIRMENT
RATING
EVALUATION:
Griffith
v. WCAB,
798 A.2d 324

Commonwealth Court affirms WCAB decision which reversed the WC Judge finding that the Judge is not permitted to review an impairment rating where the employer files a petition to modify claimant's compensation rate after the rating had been established and was not challenged by the claimant, despite the fact that the WC Judge rejected the testimony of the doctor who imposed the impairment rating as not credible.

LATE ANSWER:
Neidlinger
v. WCAB,
798 A.2d 334

Commonwealth Court denies claimant's appeal which sought to preclude Joined Defendant from defending allegations of the claim petition insofar as the answer to the Joinder Petition was late; Court limits Yellow Freight preclusion to a Claim Petition and reaffirms that even in that circumstance a late answer is not tantamount to a default judgment.

SUBROGATION:
Budd Company v.
WCAB,
798 A.2d 866

Commonwealth Court held it was impermissible to alter the grace period to recoup additional future credits where to do so would exceed the actual balance of recovery to the claimant; agreement declared null and void and parties revert to status prior to agreement.

Thompson
v. WCAB,
No. 174 CD 1997
Dec. 6/21/2002

After Pa. Supreme Court held subrogation is absolute and not subject to ad hoc equitable concerns, matter was remanded to Commonwealth Court to consider if subrogation is appropriate where parties to the third-party suit apportioned all settlement proceeds to pain and suffering (in an obvious attempt to defeat subrogation lien); Court held, relying on 1959 precedent, such an attempt will not defeat subrogation and such a scheme violates public policy consideration.

*Chuck Katz Steve Harlen Jane Lombard
Andy Touchstone John Dogum Paul Pauciulo Sheila Tone*