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## **WORKERS' COMPENSATION ONE LINERS JANUARY 2003**

ACT 57:

Gardner v. WCAB,  
1923 C.D. 2002 Decided Jan. 15, 2003 \*

En banc majority of Commonwealth Court rules IRE not available where the employer failed to request the exam within 60 days of the expiration of 104 weeks of TPD; Court relies on "clear, unambiguous" mandatory language of Section 306 (a.2) (1) to determine permissive regulation thereto is contrary to the Act and must fail.

JURISDICTION:

McIlvene Trucking Inc. v. WCAB,  
810 A.2d 1280

Supreme Court holds an employment agreement to be bound by WC laws of another state, where injury in question occurred in Pennsylvania, violates public policy and is therefore not enforceable.

PYSCHIC INJURY:

Borough of Beaver v. WCAB,  
810 A.2d 713

Commonwealth Court agrees that police officer subject to a pattern of abusive behavior by superiors proved abnormal work conditions, finding the type of stressful stimuli inherent to police work differed from the stress inflicted in this case.

REINSTATEMENT:

Cytemp Specialty Steel v. WCAB,  
811 A.2d 114

Commonwealth Court affirms Board holding periods of suspension do not count toward 500 week period claimant may receive partial disability benefits so long as partial disability is resumed during the 500 week of statute of repose, distinguishing cases for purpose of calculating 500 weeks under Section 413 from Section 306.

SUBROGATION:

Poole vs. WCAB,  
810 A.2d 1182

In a case of first impression, Supreme Court reverses Commonwealth Court holding proceeds of legal malpractice award are subject to subrogation under Section 319; the unique nature of a legal malpractice action requiring claimant to prove a case within a case compels this result.

HAPPY NEW YEAR

*CHUCK KATZ  
JOHN DOGUM*

*STEVE HARLEN  
PAUL PAUCIULO*

*JANE LOMBARD  
SHEILAH TONE*

\*See attached WC Alert