

**Jane A. Lombard**  
*Attorney at Law*

1601 Market Street  
34<sup>th</sup> Floor  
Philadelphia, PA 19103-2316  
  
phone 215-299-4279  
fax 215-564-2413  
e-mail [jlombard@swartzcampbell.com](mailto:jlombard@swartzcampbell.com)  
web [www.swartzcampbell.com](http://www.swartzcampbell.com)

**WORKERS' COMPENSATION  
ONE-LINERS  
APRIL 2003**

CLAIM PETITION:  
Waldameer Park v. WCAB  
No. 2031 CD 2002  
decided 3/17/03\*

Commonwealth Court, following Lemansky, decides employer must issue "medical only" NCP to acknowledge injury where wage loss is not at issue; attorney's fees assessed as claimant needed to file petition to protect against three year statute of limitations.

EXCLUSIVITY:  
O'Donnell V. WCAB,  
816 A.2d 1159

Superior Court holds WC Act is exclusive remedy available to plaintiff, a laborer hired by subcontractor, against an employee of that subcontractor, as it would be illogical to provide immunity to the employer and leave its employees vulnerable to suit in tort; thus, two employees on a construction site are considered "in the same employ," although paid by two different entities.

FINAL RECEIPT:  
Johnson v. WCAB,  
816 A.2d 1262

Final Receipt set aside beyond three year statute of limitations where Commonwealth Court finds employer's improper conduct, withholding final check and failing to explain significance of the document to claimant, induced him to execute agreement.

MODIFICATION:  
Henry v. WCAB,  
816 A.2d 348

Commonwealth Court affirms grant of modification and holds where claimant voluntarily attends a vocational interview objections to the expert's qualifications under Caso and Walker are waived.

REVIEW:  
Jeanes Hospital vs. WCAB  
No. 1833 C.D. 2002  
decided 2/18/03

Commonwealth Court holds a petition to review NCP is proper only if additional conditions were mistakenly omitted; for conditions not in existence at time NCP was issued, claimant must file a claim petition, unless condition is a natural consequence of the recognized work injury.

*Jane Lombard      Chuck Katz      Steve Harlen*  
*Paul Pauciulo      Sheilah Tone      Debra Matherne*

\*Watch for WC Alert more fully addressing this decision.