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WORKERS' COMPENSATION
ONE-LINERS
APRIL, 2005

Average Weekly Wage:
Zerby v. WCAB,
Colpetzer v. WCAB,
20 Pa. WCLR 25 (Pa. 2005)

In consolidated cases involving calculation of an average weekly wage, the Supreme Court affirms the Commw. Ct. following their precedent in Hannaberry; to insure an average weekly wage "adequately reflects the reality of claimant's earning experience" the average weekly wage from a prior work injury is to be included when determining an average weekly wage for a subsequent injury sustained that same year.

Claim Petition:
US Airways v. WCAB, 20 Pa.
WCLR 13 (Pa. Commw. Ct.
2005)

Commw. Ct. affirms the Board, but amends their Order to dismiss claimant's claim petition "with prejudice," even where three year statute of limitations has not run as claimant repeatedly ignored Judge's scheduling Orders in violation of the Rules of Practice.

Review Petition:
Jeanes Hospital v. WCAB,
No. 231 MAP 2003 decided
4/14/05.

Pa. Supreme Ct. reversed Commw. Ct. holding Review Petition under Section 413 (a) is the appropriate vehicle to amend a Notice of Compensation Payable; however, as the review petition is to be treated as an original claim petition all burdens, including the statute to limitations are applicable.

Supersedeas Fund:
City of Wilkes Barre v. WCAB,
868 A.2d 620 (Pa. Commw. Ct.
2004)

Commw. Ct. rules supersedeas fund reimbursement is not available to an employer seeking recovery for overpayment secondary to their failure to promptly take a pension credit; since relief was pursued under Section 204 (a) of the Act, not Section 413 or 430, SFR is not provided.