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WORKERS' COMPENSATION ONE-LINERS MAY, 2005

Course of Employment

Wright v. WCAB,
871 A.2d 281 (Pa. Commw. Ct. 2005)

Commw. Ct. rules "jaywalking" claimant who is injured when crossing the street to retrieve personal items from his vehicle, even though considered to be on the employer's premises, was not furthering the interests of the employer or required to be there, was not in the course of his employment and, thus, not eligible for workers' compensation benefits.

MPW Industrial Services v. WCAB,
871 A.2d 318 (Pa. Commw. Ct. 2005)

In an attempt to collaterally estop tort proceedings, employer filed a petition seeking to have decedent adjudicated to be in the course of employment when killed in a motor vehicle accident after employer's Christmas party; Commw. Ct. holds WCJ lacks authority to issue such a "declaratory judgment."

Hearing Loss

McInay v. WCAB,
870 A.2d 395 (Pa. Commw. Ct. 2005)

In the case of first impression, the Commw. Ct. holds claimant's right to equal protection under United States and Pennsylvania Constitutions was not violated by Legislature's refusal to extend the discovery rule to hearing loss claims; Court finds a rational basis to limit hearing loss claims to those filed within three years of last exposure to occupational noise.

Modification

Keys-Pealter v. WCAB,
870 A.2d 936 (Pa. Commw. Ct. 2005)

Commw. Ct. holds claimant under house arrest for 21 hours per day does not exhibit bad faith in failing to pursue job referrals such that employer's modification petition was denied; Court stresses the terms of each house arrest program dictate whether jobs referred to a claimant can be considered available such that claimant must apply.

Reinstatement

George v. WCAB,
871 A.2d 310 (Pa. Commw. Ct. 2005)

Commw. Ct. denies petition for reinstatement refusing to sanction a "windfall" to a claimant who sought resumption of temporary total disability benefits against first employer who had been held proportionally liable for payment of benefits with second employer; claimant voluntarily settled his claim with the second employer.

Supersedeas Fund Reimbursement

Universal AM-CAN v. WCAB,
870 A.2d 961 (Pa. Commw. Ct. 2005)

Commw. Ct. affirms WCAB ruling that an employer cannot recover litigation costs or attorney fees from supersedeas fund as those payments are not compensation; Court further rules an employer cannot recover interest lost on payments it was forced to make as to permit recovery would be tantamount to "judicially amending" Section 443.