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Impairment Rating Evaluation:
Schachter v WCAB (SPS Technologies),
320 C.D. 2006 filed 10/12/2006

Impairment rating evaluation does not preclude subsequent Petition for Termination; Commw. Ct. affirmed the WCAB which reversed an award of unreasonable contest attorney's fees where employer filed Termination Petition after securing an IRE reflecting a six percent rating; reasoning that a rating above zero percent does not constitute an admission that condition is irreversible, disability status can still be challenged at a later date.

Penalty:
Constructo Temps, Inc. v. WCAB (Tennant),
907 A.2d 52

Applying their holding in Luvine the Commw. Ct. reiterates the Security Fund is not considered an insurer under the WC Act and thus is not subject to penalties; further, an employer who has properly insured its liability cannot be held liable for the assessed penalty when its insurer becomes insolvent because that employer has not engaged in "avoidable wrongful conduct."

Subrogation:
Urmann v. Rockwood Casualty Ins. Co.,
905 A.2d 513 (Pa. Super 2006)

Superior Court found no statutory or policy requirement that WC lien be maximized and found division of proceeds was supported by facts of the case, not an intent to reduce WC Carrier's subrogation recovery; thereby rejecting comp carrier's challenge to third-party settlement apportionment where 80 percent of the recovery to a brain injured claimant was for his wife's loss of consortium claim.

Kidd-Parker v. WCAB (Phila. School District),
907 A.2d 33 (Pa. Commw. Ct. 2006)

Comm. Ct. holds employer's right to subrogation is not limited to the amount paid prior to a termination order where denial of supersedeas necessitated continued payments to claimant; nor is its right limited by availability of Supersedeas Fund reimbursement; nor limited to only the wage loss component of the tort recovery; amount subject to subrogation was the entire amount employer paid to the claimant.

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