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WORKERS' COMPENSATION ONE-LINERS NOVEMBER, 2006

Credits:

Penn State University/PMA v. WCAB (Hensal), No. 1448 C.D. 2005 Decided 11/17/2006.

Department of Public Welfare v. WCAB (Cato), No. 2521 C.D. 2005 Decided 11/17/2006.

Hearing Loss:

Hayduk v. WCAB (Bemis Co. Inc.), 906 A.2d 622 (Pa. Commw. Ct. 2006)

IME:

Knechtel v. WCAB (Marriott Corp.), 906 A.2d 669 (Pa. Commw. Ct. 2006)

Specific Loss:

Agnello v. WCAB (Owens/Illinois), 907 A.2d 676 (Pa. Commw. Ct. 2006)

In cases with significant implication for public employers, Commw. Ct. rules an employer may offer actuarial opinion evidence to meet its burden to prove funding of a defined benefit pension plan; employer must only prove extent of the funding, not actual contributions, which is appropriate through use of an actuarial formula.

Commw. Ct., while agreeing with WCAB's analysis that a limited asset purchase did not make the employer a successor in-interest, imposed liability for payment of hearing loss award because audiograms on which the employer based its position that the bulk of the loss was pre-existing were not shown to be OSHA compliant.

In a case of first impression, the Commw. Ct. holds that the legislature intended "participation" of claimant's health care provider in an independent medical examination to be limited to "attendance" and "observation;" it rules that the WC Judge did not err in precluding claimant's health care provider from recording the exam, questioning the examiner, and assisting the claimant in the exam.

Commw. Ct. reverses WC Judge and remands for disfigurement award; Court requires the Judge to evaluate claimant's appearance without denture to assess claimant's "unsightly appearance" where work injury resulted in loss of three lower teeth, this is despite WC Judge finding that he was unable to detect a difference in claimant's appearance with or without the prosthetic.

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