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WORKERS' COMPENSATION ONE-LINERS DECEMBER, 2006

Attorney Fees:

Hendricks v. WCAB (Phoenix Pipe), 909 A.2d 445 (Pa. Commw. Ct. 2006)

Commw. Ct. discusses and refines its holdings in McEachin and its progeny to rule Judge and Board have jurisdiction and authority to decide attorney's fee disputes where the fee agreement has been filed within the workers' compensation system before counsel is discharged by the claimant.

IME:

Central Dauphin School v. WCAB (Siler), 909 A.2d 465 (Pa. Commw. Ct.)

Claimant's obligation to cooperate in an independent medical examination includes a duty to release prior relevant medical records for examiner's review; WC Judge has the authority to order claimant to produce such records in conjunction with ordering the evaluation.

Jurisdiction:

McElheney v. WCAB (Kvaerner Ship Yard), 908 A.2d 960 (Pa. Commw. Ct. 2006)

Commw. Ct. rules, in reversing WC Judge and Appeal Board, that concurrent jurisdiction exists under Longshore Harbor WC Act and Pennsylvania WC Act where claimant sustains an injury while working on a ship in graven dry dock as injury, in a physical sense, occurred on land; Court provides an extensive and instructive history of the Longshore Act in resolving this question.

Modification:

Sharon Tube Co. vs. WCAB (Buzard), 908 A.2d 929 (Commw. Ct. 2006)

Commw. Ct. affirms WCAB holding employer is precluded from seeking a modification of benefits on a date prior to its execution of a Supplemental Agreement wherein it agreed that the claimant was totally disabled; employer must prove a change in status on a date after it agreed that claimant was entitled to temporary total disability benefits.

Specific Loss:

Seekford v. WCAB (RPM Erectors), 909 A.2d 421 (Pa. Commw. Ct. 2006)

The Court holds that claimant's claim for specific loss benefits is time barred where filed more than three years following payment of commutation of benefits; discovery rule does not toll statute of specific loss claim where claimant was immediately aware of problem caused by surgery necessitated by original work injury.

Supersedeas Fund

Reimbursement:

JP Lamb Construction v. WCAB (Bureau of WC Compensation), 909 A.2d 18 (Pa. Commw. Ct. 2006)

Commw. Ct. reasons employer is entitled to supersedeas fund reimbursement despite entering a stipulation before the WC Judge which conceded total disability status; employer preserved statute of limitations defense thus ultimate disposition that benefits were not payable to the claimant as claim was time barred was an adversarial determination.

Happy New Year

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