

THE PENNSYLVANIA APPELLATE CASE REVIEW

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REPORTING STATE COURT DECISIONS THROUGH MARCH 31, 2023

PENNSYLVANIA APPEALS COURT OPINIONS

I. Civil Litigation

A. Arbitration Agreements - Minors

- [*Santiago v. Philly Trampoline Park, LLC*, 2023 PA SUPER 47 \(Pa.Super., March 21, 2023\)](#)
 - **Holding:** A parent's role as natural guardian does not entitle the parent to bind a minor child to an arbitration agreement and waive the child's right to seek redress in a court of law.

B. Relation Back Doctrine

- [*Edwards v. Norfolk Southern Railway Co.*, 2023 PA SUPER 45 \(Pa.Super., March 21, 2023\)](#)
 - **Holding:** The relation back doctrine, which in certain situations validates the acts of personal representatives that predate their official appointments, applies when a plaintiff files a timely action on behalf of an estate but does not apply to be appointed the personal representative of the estate until after the statute of limitations has run.

C. Sovereign Immunity - NJ Transit

- [*Galette v. NJ Transit*, 2023 PA SUPER 46 \(Pa.Super., March 21, 2023\)](#)
 - **Holding:** Because New Jersey (NJ) Transit operates as a "wholly independent entity" that cannot bind the State of New Jersey or otherwise place it in a position where it will be "subject to and controlled by the mandates of judicial tribunals," without its consent, "at the instance of private parties," it is not an arm of the state and is not entitled to sovereign immunity such that an action could not be brought in a state other than New Jersey.

II. Evidence

A. GPS Data

- [*Commonwealth v. Wallace*, No. 93 MAP 2021 \(Pa., Feb. 22, 2023\)](#)
 - **Holding:** Global Positioning System (GPS) data is not inadmissible hearsay under Pa.R.Evid. 803 (setting forth hearsay exceptions). It is not hearsay because it does not constitute a statement made by a declarant as outlined in Pa.R.Evid. 801 and is not an assertion (or the nonverbal conduct) of a person. Justice Wecht filed a concurring opinion. *N.B. Although the issue arose in a criminal case, the analysis applies to all matters.*

III. Insurance Policies

A. Motor Vehicle Insurance - Household Vehicle Exclusions

- [Erie Insurance Exchange v. Mione, No. 89 MAP 2021 \(Pa., Feb. 15, 2023\)](#)
 - **Holding:** Motor vehicle insurance policy exclusions barring uninsured and underinsured motorist coverage for injuries sustained while operating a household vehicle not listed on the policy under which benefits are sought are enforceable. The Opinion specifically rejects the view that household vehicle exclusions are *ipso facto* unenforceable.

IV. Workers' Compensation

A. Medical Marijuana

- [Appel v. GWC Warranty Corp. \(WCAB\), No. 824 C.D. 2021 \(Pa.Cmwlt., March 17, 2023\)](#)
&
- [Fegley v. Firestone Tire & Rubber \(WCAB\), No. 680 C.D. 2021 \(Pa.Cmwlt., March 17, 2023\)](#)
 - **Holding:** When a claimant's lawful medical marijuana use is causally related to the work injury, the Workers' Compensation Act requires insurers to pay for lawfully-prescribed medical marijuana because Section 2102 of the Medical Marijuana Act, 35 P.S. § 10231.2102, does not prohibit insurers from covering medical marijuana.

V. Allocatur Petitions

The Pennsylvania Supreme Court has granted an appeal in the following matter based upon the issue stated:

- [Mertis v. Oh, No. 546 MAL 2022 \(Pa., March 22, 2023\)](#)
 - Whether, in an issue of first impression and significant public importance, Pa.R.C.P. 4003.6(1) expressly permits defense counsel in a medical malpractice case to speak with plaintiff's treating physicians outside the discovery process in circumstances where: (i) Pa.R.C.P. 4003.6(1) expressly allows defense counsel to communicate directly with treating physicians who are firm clients; and (ii) both treating physicians are clients of the law firm in question.