

# THE PENNSYLVANIA APPELLATE CASE REVIEW

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REPORTING STATE COURT DECISIONS THROUGH FEBRUARY 8, 2026

## Pennsylvania Appellate Court Decisions

### A. *Appellate Procedure - Appealable Orders*

☐ [Godlewski v. Duborgel \(Pa.Super. December 18, 2025\)](#)

- Holding: Pursuant to Pa.R.A.P. 1311(b) and Pa.R.A.P. 341, a request to certify an order for interlocutory appeal is not deemed denied if a trial court has issued a directive related to the certification request within thirty days.

### B. *Attorney Ethics*

☐ [Biernstein v. Albanes Food, LLC \(Pa.Super. January 20, 2026\)](#)

- Holding: Attorneys are expected to have contingency plans in place to protect clients from deadlines. In a concurring Opinion, Judge Lazarus correctly notes that there is no such requirement in the Rules of Professional Conduct and argues that "this Court should not create such a procedural rule or requirement."

### C. *Collateral Orders*

☐ [Chilutti v. Uber Technologies, Inc. \(Pa. January 21, 2026\)](#)

- Holding: A trial court Order granting a petition to compel arbitration is not an immediately appealable collateral order.

### D. *Delay Damages*

☐ [Arreguin v. Kinsing \(Pa.Super. December 23, 2025\)](#)

- Holding: Because the defendant suffered no prejudice from plaintiff's failure to give the 20-day notice under Pa.R.C.P. 238, the trial court erred by denying the Motion for Delay Damages.

### E. *Judicial Conduct/1st Amendment*

☐ [In re: Mark B. Cohen \(Pa. January 21, 2026\)](#)

- Holding: Although restrictions on a judicial candidate's speech must satisfy strict scrutiny, restrictions on a sitting judge's speech, outside the context of his or her election, need only satisfy a more deferential balancing test. Under this balancing test, a reviewing court must decide whether the judge's speech addressed a matter of public concern. If the

answer is yes, then the court must balance the Commonwealth's interest in protecting the efficiency of the administration of justice, including the independence, integrity, and impartiality of the judiciary, against the judge's interest in making the statement. If, however, the answer is no, then the Commonwealth has wide latitude in managing the judiciary, without intrusive oversight in the name of the First Amendment.

#### F. *MCARE Act*

☐ [Brader v. Allegheny Health Network \(Pa.Super. December 2, 2025\)](#)

- Holding: Because the MCARE Act affords a statutory remedy, it precludes a common law discharge claim.

#### G. *Mental Health Procedures Act*

☐ [Wunderly v. Saint Luke's Hospital of Bethlehem \(Pa. October 23, 2025\)](#)

- Holding: The immunity provision of the Mental Health Procedures Act, 50 P.S. § 7114(a) provides protection absent willful misconduct or gross negligence, from civil and criminal liability to institutions and individuals "who participate[] in a decision that a person be examined or treated." This provision applies where a hospital provides medical care for a physical ailment of a patient admitted to its facility for mental health treatment.

#### H. *Motor Vehicle Insurance Policies*

☐ [Erie Insurance Exchange v. Kennedy \(Pa.Super. December 11, 2025\)](#)

- Holding: An auto insurance policy's exclusions of UM/UIM coverage are valid because they do not limit the policyholder's ability to stack those benefits.

#### I. *Pennsylvania Home Inspection Law*

☐ [Gidor v. Mangus \(Pa. October 23, 2025\)](#)

- Holding: Whether Section 7512 of the Home Inspection Law, 68 Pa.C.S. § 7512, operates as a statute of repose, and there are no exceptions, express or implied.

#### J. *Privacy - Google Searches*

☐ [Commonwealth v. Kurtz \(Pa. December 16, 2025\)](#)

- Holding: A person who conducts general, unprotected Internet searches has no expectation of privacy in the records generated by those searches.

#### K. *Professional Liability - Attorneys*

☐ [Poteat v. Asteak \(Pa.Super. December 11, 2025\)](#)

- Holding: When an attorney enters into a contract to perform legal services, the attorney agrees to do so in a competent manner.

**L. *Sovereign Immunity - Tort Claims Act - Sexual Abuse Exception***

☐ [N.N. v. The School District of Philadelphia \(Pa.Cmwlt. December 26, 2025\)](#)

- Holding: The sexual abuse exception to the Tort Claims Act, 42 Pa.C.S. § 8542(b)(9), is applicable where a local agency is accused of negligently enabling sexual abuse.

**M. *Venue - Forum Non Conveniens***

☐ [Duxbury v. Reconstructive Orthopedic Associates II, P.C. \(Pa.Super. February 4, 2026\)](#)

- Holding: A court will not dismiss a case for forum non conveniens unless justice strongly militates in favor of relegating the plaintiff to another forum.

**N. *Workers' Compensation - Abnormal Working Conditions - Psychological Injuries***

☐ [Ganley v. Upper Darby Township \(WCAB\) \(Pa.Cmwlt. October 22, 2025\)](#)

- Holding: A combination of unusual and distressing events can constitute an abnormal working condition, entitling a claimant to workers' compensation benefits. In a concurring Opinion, Judge Leadbetter writes that it is time to scrap the abnormal working condition doctrine and hold that if there is clear proof of a disabling work-related mental injury, it should be compensable.

**O. *Workers' Compensation - Abnormal Working Conditions - Psychological Injuries***

☐ [Russo v. Upper Derby Township \(WCAB\) \(Pa.Cmwlt. December 8, 2025\)](#)

- Holding: Under the mental/mental standard, a workers' compensation claimant must establish a verifiable psychological injury and a causal connection to abnormal working conditions.

**P. *Workers' Compensation - Lorino Fees***

☐ [Parrish v. Yeager Supply, Inc. \(WCAB\) \(Pa.Cmwlt. February 5, 2026\)](#)

- Holding: A Workers' Compensation Judge does not have authority to award *Lorino* fees against the Workers' Compensation Client Security Fund under Section 440(a) of the Act, 77 P.S. § 996 because the Security Fund is not an "insurer" under the Act.

**Q. *Workers' Compensation - Statutory Immunity***

☐ [Yoder v. McCarthy Construction, Inc. \(Pa. October 23, 2025\)](#)

- Holding: A general contractor remains entitled to "historic immunity as a 'statutory employer' form suit or common law negligence ... even though the subcontractor which directly employed the injured worker carried workers' compensation insurance which paid benefits for the worker's injuries." The Court emphasized that the decision to repeal the statutory employer doctrine must come from the legislature.