

## FRANCIS X. WICKERSHAM

SHAREHOLDER



### AREAS OF PRACTICE

Workers' Compensation

### CONTACT INFO

(610) 354-8263  
FXWickersham@mdwgc.com

620 Freedom Business Center  
Suite 405  
King of Prussia, PA 19406

### ADMISSIONS

Pennsylvania  
1989

### EDUCATION

Widener University School of Law  
(J.D., 1989)

Villanova University (B.A., 1986)

### HONORS & AWARDS

The Best Lawyers in America®,  
Workers' Compensation Law -  
Employers  
2023-2024

### ASSOCIATIONS & MEMBERSHIPS

Claims & Litigation Management  
Alliance (CLM)

Greater Philadelphia Executive  
Claims Council

Montgomery County Bar  
Association

Pennsylvania Bar Association

### OVERVIEW

Frank devotes his practice to representing employers from many different industries in a variety of Pennsylvania workers' compensation claims. He has successfully defended construction companies, food service companies, nursing homes, pharmaceutical companies, retail stores and supermarkets in cases involving hearing loss due to exposure, occupational noise, psychiatric injuries from abnormal working conditions, injuries from contact with toxic chemicals in the workplace and fatalities.

Frank's articles on important Pennsylvania workers' compensation issues have appeared in well-known employer publications, such as the *A.M. Best Insurance Digest*, *Counterpoint* and the Pennsylvania Self Insurers' Association newsletter. He is a writer and editor of the firm's *Hot In Workers' Comp*, a monthly update on significant developments in Pennsylvania workers' compensation law. Frank has also given numerous presentations and seminars on critical developments in Pennsylvania workers' compensation law to various employer and insurance industry groups, as well as to his colleagues.

In 1986, Frank received his undergraduate degree from Villanova University. He attended the Widener University School of Law and obtained his *juris doctor* in 1989.

Frank is an active member of the workers' compensation sections of the Pennsylvania and Montgomery Bar associations. He also has a long association with the Upper Merion Lacrosse Club as a member of the board, as well as with the King of Prussia Soccer Club, where he has served as a soccer coach for many years.

### YEAR JOINED

1992

## THOUGHT LEADERSHIP

### **Commonwealth Court affirms denial of Claim Petition that alleged occupational disease of lead toxicity.**

**King of Prussia**  
**Workers' Compensation**  
**July 1, 2024**

On August 24, 2018, the claimant advised the employer that he had sustained a work-related injury due to lead exposure. The employer issued a notice of denial on September 1, 2018. What's Hot in Workers' Comp, Vol. 28, No.

### **Commonwealth Court holds that claimant who was sole proprietor is required to provide notice of work-related injury to workers' compensation insurance carrier within 120 days of occurrence of the injury.**

**King of Prussia**  
**Workers' Compensation**  
**July 1, 2024**

In this case, the claimant was the owner of the employer and the sole employee. He sustained work injuries on September 28, 2015, while coming off a ladder, when he tripped over a shovel, fell backwards and landed on his head. What's Hot in Workers' Comp, Vol. 28, No.

### **Pharmacy staffed by pharmacist provided by an employee leasing agency is a provider as defined by Section 109 of the Act. When a physician has ownership interest in said pharmacy, a referral to the pharmacy violates the Act's self-referral prohibition.**

**King of Prussia**  
**Workers' Compensation**  
**June 1, 2024**

In this case, 700 Pharmacy filed five Fee Review Applications for prescriptions for the claimant. The Hearing Officer dismissed all of the applications on the grounds of an illegal self-referral. What's Hot in Workers' Comp, Vol. 28, No.

### **Excluding counsel fees from payment of future medical benefits based on future medical expenses as speculative is contrary to Sec. 306(f.1)(7) of the Act, which prohibits provider from billing claimant for any costs relating to care under the Act.**

**King of Prussia**  
**Workers' Compensation**  
**May 1, 2024**

In this case, a workers' compensation judge granted in part and denied in part the claimant's Petition to Review. The judge also approved a 20% Fee Agreement between the claimant and her counsel, but as to indemnity benefits only. What's Hot in Workers' Comp, Vol. 28, No.

### **Under Section 440 of the Act, an unreasonable contest will always result in an award of attorney's fees and a reasonable contest may result in an attorney's fee award.**

**King of Prussia**  
**Workers' Compensation**  
**May 1, 2024**

In this case, a workers' compensation judge granted a Claim Petition and ordered payment of benefits for a September 17, 2020, work injury, but only through June 24, 2021, at which time, the judge found that the claimant had fully recovered from t What's Hot in Workers' Comp, Vol. 28, No.

## **CLASSES/SEMINARS TAUGHT**

*One Less Workers' Compensation Zombie in the Apocalypse*, CLM Work Comp, Casualty & Risk Management Conference, Chicago, IL, May 18, 2023

*State of the Union - Medical Marijuana*, Workers' Compensation Insurance ExecuSummit, Uncasville, Connecticut, January 24-25, 2023

*Protecting Against Unreasonable Medical Expenses and Fee Reviews*, Marshall Dennehey Workers' Compensation Seminar, October 27, 2022

*Unique Workers' Compensation Aspects of Independent Contractors and Traveling Employees*, Lorman Education Services webinar, December 16, 2021

*The URO Challenge and the Impact of Medical Marijuana*, Marshall Dennehey webinar, October 29, 2020

*Mitigating the Risk of Workplace Bullying*, Marshall Dennehey Workers' Compensation Seminar, October 24, 2019

*Pot For Pain*, Marshall Dennehey Workers' Compensation Seminar, October 25, 2018

*In a Pickle: The Implications of Protz*, Marshall Dennehey Workers' Compensation Seminar, October 19, 2017

*Defense Counsel Wish List*, Marshall Dennehey Workers' Compensation Seminar, October 19, 2016

*Aging Gracefully? The Senior Workforce and Impacts on Workers' Compensation*, CLM Atlanta, Atlanta, Georgia, May 2016

*Doped Up: Implications of Compound Medications, Generic Drugs and Medical Marijuana*, Marshall Dennehey Workers' Compensation Seminar, October 22, 2015

*Marijuana in Workers' Compensation - Medical and Legal Challenges*, CLM 2015 Medical Legal Summit, Chicago, Illinois, June 3, 2015

*Medicare Liens and Set-Asides and Workers' Compensation Liens*, Philadelphia Bar Association's Bench-Bar & Annual Conference, October 18, 2014

*Behind the Robe: An Interview With the Judges*, Roadmap to Success - Understanding Workers' Compensation, Marshall Dennehey seminar, October 24, 2013

Career Day, Upper Merion Middle School, 2011

*Case Law Update*, Broadspire and Glaxosmithkline, 2010

*Navigating the Workers' Compensation Court Room*, Berkley Midatlantic Group, 2010

*How to Distinguish Between ADA, FMLA and Workers' Compensation Actions*, Wegmans, 2009

*Record Retention and E-Discovery*, The Addis Group, 2009

*Legal Updates: A Survival Guide*, Pennsylvania Self-Insurers Association Annual Meeting, 2008

*Impact of New Vocational Regulations on Pennsylvania Workers' Compensation Claims Handling*, Sedgwick Claims Management Services, 2007

*Impact of New Vocational Regulations on Pennsylvania Workers' Compensation Claims Handling*, Cambridge Integrated Services, 2007

*The Do's and Don'ts of Utilization Reviews*, Montgomery Bar Association, 2007

Career Day, Upper Merion Middle School, 2005

Law Day, Caley Elementary School, 2002

Law Day, Caley Elementary School, 2001

*Ethical Considerations in Workers' Compensation*, Montgomery Bar Association, 2000

*Interplay Between Workers' Compensation and Liability*, Insurance Society of Philadelphia, 1999

## **PUBLISHED WORKS**

"Back to the Future: A Post-'Protz' Primer on Pre-'Protz' Law," *Pennsylvania Law Weekly*, August 11, 2022

"Blurred Lines: A Breakdown of Conventional Workplace Boundaries During the Pandemic," *Pennsylvania Law Weekly*, August 5, 2021

"Medical Marijuana: Reasonable and Necessary Medical Care for Injured Workers?" *The Legal Intelligencer's Cannabis Law Supplement*, May 27, 2020

"Workers' Compensation Fraud Case Against Pharmacies & Physicians Dismissed by Court," *What's Hot in Workers' Comp--Special PA Alert*, September 18, 2019

"Pot for Pain: A Cannabis Conundrum in the Courts," *CLM Magazine*, September 2018

"Much Anticipated Protz Decision Comes Down," *Philadelphia Bar Reporter*, September 2017

"Protz: Problems for Practitioners and Politicians," *Pennsylvania Law Weekly*, August 22, 2017

"State of Confusion: *Duffey v. WCAB* and Pennsylvania's Impaired Impairment Rating System," *Defense Digest*, Vol. 23, No. 2, June 2017

"Aging Gracefully? The Impact of a Senior Workforce on Workers' Compensation," *Workers' Compensation*, page 28. August/September 2016

"Supreme Court of Pennsylvania Carves Out Exception to Exclude Remedy Provisions of the Pennsylvania Workers' Compensation Act For Late Manifesting Occupational Disease Claims," *ABA TIPS Workers' Compensation And Employers' Liability Law Committee Newsletter*, Winter 2014

*Case Law Alerts*, regular contributor, 2010-present

"Legal Updates," *Pennsylvania Self-Insurers Association Newsletter*, 2009-present

"Ask an Expert," *Pennsylvania Self-Insurers Association Newsletter*, January 2009

*Digest of Insurance Law, Pennsylvania Workers' Compensation*, Best's Directory of Recommended Insurance Attorneys, 2007-present

*Special Pennsylvania Workers' Compensation Law Alerts*, 2006-present

Critical Case Summaries, *Pennsylvania Self-Insurers Association Newsletter*, 2006-2008

*What's Hot in Workers' Comp*, Marshall Dennehey Workers' Compensation Department newsletter, 2002-present

"Decisions Impact Workers' Comp Benefits: Court Focuses on Release Agreement, Length of Employment," *The Legal Intelligencer*, March 2001

"Independent Contractor or Employee: Supreme Court Rolls Over Controversial Commonwealth Court Decision Holding That Federal and State Motor Carrier Regulations Require Finding of Employment," *Defense Digest*, Vol. 7, No. 2, April 2001

"Lykins: The Supreme Court Eliminates Unemployment Compensation Credit for pre-Act 44 Injuries," *Counterpoint*, January 1999

"Act 44 and Pre-Amendment Injuries: Banic Breaks the Mold," *PSIA Workers' Compensation Newsletter*, March 1996

"Pennsylvania Workers' Compensation Update," *Counterpoint*, newsletter of the PA Defense Institute, June 2002-present

## RESULTS

### The defense successfully proves flaw in claimant's expert testimony

#### **Workers' Compensation**

**December 13, 2023**

We successfully defended a Claim Petition on behalf of a national trucking company where the claimant alleged a disabling aggravation of a pre-existing cervical condition from a fall at work. Our thorough review of the medical records and the presentation of the evidence convinced the judge that the claimant did not meet his burden of proof on causation.

### Successfully Defended a Claim Petition on Behalf of a National Trucking Company

#### **Workers' Compensation**

**December 11, 2023**

We successfully defended a claim on behalf of our client where the answer was late without a reasonable excuse. However, we persuaded the workers' compensation judge that the claim petition was not well-pled as to the main allegation. We further convinced the judge that the claimant did not meet his burden of proof on causation.

### Workers' Compensation Appeal Board affirms Judge's decision granting a petition to terminate benefits.

#### **Workers' Compensation**

**February 16, 2022**

The Appeal Board rejected the claimant's argument that the testimony of the employer's medical expert did not support the judge's finding of a termination of benefits for a low back injury because the employer's medical expert testified that if the claimant was asymptomatic in her back prior to her slip and fall in a kitchen at work, the injury may have aggravated a pre-existing, underlying condition in her lumbar spine.

## REPRESENTATIVE CASES

*School District of Philadelphia v. WCAB (Hennegan)*, 751 A.2d 729 (Pa. Cmmwlth. 2000)

*McKinney v. WCAB (Decision Data)*, 752 A.2d 928 (Pa. Cmmwlth. 2000) (rev. per cuiam, 770 A.2d 326 (Pa. 2001))