

# JPI

# WORKING

# for you

Fighting for Workers' Rights

Spring 2023



## UNION ORGANIZING:

# WORKERS STANDING UP TO STARBUCKS

In December of 2021, workers at a Starbucks in Buffalo, New York, voted to become the first of over 9,000 corporate-operated locations to unionize. From that success, the pace of organizing at Starbucks has accelerated rapidly. What began as a local organizing effort has grown into a national movement. In the last thirteen months, over 280 stores in at least forty states across the U.S. have filed union election petitions.

The Starbucks organizing effort is noteworthy, not just because of how quickly the movement has spread, but also because food and drink establishments have traditionally been one of the least unionized workplaces in the United States. According to the U.S. Department of Labor, only 1.2% of all workers in that sector were represented by a union. Overworked, undervalued, and underappreciated by their employer, baristas across the country have banded together, harnessing their collective power to organize

and advocate for better working conditions, dignity, and a higher standard of living. In fact, a national organization, Starbucks Workers United, has been formed to support their efforts.

Despite its seemingly progressive corporate image, Starbucks has responded to organizing campaigns aggressively and forcefully. It has resorted to illegal anti-union tactics, including discharging organizers and other vocal supporters of the union. Despite this, worker solidarity remains strong and resolute. Numerous successful unfair labor practice charges have been filed with the NLRB against Starbucks—many others remain ongoing. Frequent picketing has informed the public about Starbucks' illegal anti-worker misconduct and turned many people away from patronizing Starbucks. Workers have stood together and supported each other and the campaign is succeeding, both locally and nationally.



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For more than 75 years, the attorneys of Jubelirer, Pass & Intrieri have served as trusted allies for those we represent.

- Labor and Employment Law
- Workers' Compensation
- Personal Injury
- Social Security Disability
- Estate Planning and Administration
- Criminal Defense
- Civil Litigation

Jubelirer, Pass & Intrieri has served as legal counsel for more than 80 local and national labor organizations in various industries in both the public and private sectors. The lawyers at JPI have represented working people and their families in a variety of legal proceedings.

JPI has a well-established track record protecting and enforcing workers' rights. Our attorneys are honored to have been named among Pennsylvania Super Lawyers, Pittsburgh's Top-Rated Lawyers, and Best Lawyers in America.

JPI has been designated as a Top-Tier Law Firm by *U.S. News & World Report*.

***Let us serve you and your family.***





# JPI TO ARGUE NOVEL CONSTITUTIONAL ISSUE BEFORE PA SUPREME COURT

One of the bedrocks of the American criminal justice system is the right of the accused to confront witnesses against them. This fundamental right—enshrined in the Sixth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution—is known as the “Confrontation Clause.” Its purpose is to ensure that a trial is fair and the outcome is reliable.

Modern law enforcement increasingly relies upon technology to investigate criminal conduct. This technology takes many forms: toxicology analysis, GPS monitoring, facial recognition, cell phone location, and sound detection. The proliferation of this type of analysis in prosecutions raises an interesting constitutional question—when a machine is testifying, how do you confront it? In a recent case, attorneys from Jubelirer, Pass & Intrieri raised this novel issue\*. The outcome is expected to have nationwide implications on the use of technology in criminal courtrooms.

In *Commonwealth v. Weeden*, the defendant was accused of shooting at an occupied vehicle. During the jury trial, the Commonwealth offered into evidence a report created by ShotSpotter to prove that gunshots were fired. ShotSpotter uses audio detection technology to determine the origin of sounds that may be gunshots. This evidence was important because of a lack of physical evidence linking the defendant to the crime scene. Despite the defense’s objection, the report was admitted into evidence. The defendant was ultimately convicted.

The appeal, which is currently pending before the Pennsylvania Supreme Court, argues that machine-generated evidence must be subject to meaningful confrontation like any other evidence (for example, eye-witness testimony). The ShotSpotter report was subject to review by a human “Incident Reviewer,” yet, the Incident Reviewer was not present at trial to testify and be cross-examined. The court will decide whether simply trusting this type of evidence, without an opportunity to challenge it, violates the constitutional rights of the accused.

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*\*Jubelirer, Pass & Intrieri has recently broadened its practice areas to include full-service representation in criminal matters, investigations, and appeals.*

For more information about JPI, go to [jpilaw.com/practice-overview.html](http://jpilaw.com/practice-overview.html)

# LEGAL GUARDIANSHIP IN PENNSYLVANIA

Legal guardianship allows a party to make financial, health and personal decisions on behalf of an individual who is either an incapacitated adult or a child under the age of 18. A person seeking legal guardianship of another will do so by petitioning the court, which will then decide if the interested party can fulfill the role.

## Types of Guardians in Pennsylvania

A legal guardian is a person or institution appointed by the orphans' court to be responsible for carrying out the affairs of another individual, known as a ward. Guardians may care for minor children under 18 or for adults who are incapable of making their own financial or health care decisions.

There are three types of guardianships in the Commonwealth of Pennsylvania:

- **Guardianship of the minor:** A minor's legal guardians are typically their parents, but in some instances, when parents are not able to take care of their child (for reasons like death, serious illness or incarceration), the court will appoint another person to do so.
- **Guardianship of the person:** A guardian may be put in place by the court to take care of someone or to make day-to-day decisions for a disabled adult who cannot do so for themselves.
- **Guardianship of the estate:** A guardian may be put in place by the court to make financial decisions for a disabled adult who cannot do so on their own.

### The following parties can become guardians:

- A qualified individual.
- A corporate fiduciary.
- A county agency.
- A guardianship support agency.
- A nonprofit corporation.

## Appointment of a Guardian in a Will

In the case of minors, a parent will typically create a will naming their child's guardian in the event of the parents' death. Only a parent can name a person to be the guardian of a minor. However, if the court deems that the named guardian will not act in the best interests of the child, or the will cannot be immediately located, it might not approve the guardianship.



**Legal guardianship allows a party to make financial, health and personal decisions on behalf of an individual who is either an incapacitated adult or a child under the age of 18.**

A legal guardian for a child fills the role of a parent and provides for the best interests of the child. If the guardian needs support or assistance, they can seek it through state or federal aid programs to ensure that the child is healthy and in a positive environment. The legal guardian must provide a suitable place to live for the minor at all times and know what the child needs in terms of their mental and physical health.

## Adult Incapacity in Pennsylvania

Pennsylvania defines an incapacitated person as an individual who does not have the ability to evaluate information or make decisions effectively and who has become impaired to a significant degree. When a person is incapacitated, they are either partly or fully unable to manage their medical or financial affairs. If the court finds a person to be incapacitated, it will appoint a guardian to make decisions on behalf of the incapacitated person. Parties who show interest in becoming a guardian for an incapacitated adult will file for guardianship of that individual with the orphans' court in their area. Through their petition, they'll explain why they believe the individual needs a guardian. A hearing will be held and the court will review the petitioner's evidence of the individual's incapacitation and the evidence that other parties may present. The person

petitioning for a guardianship must show proof through a qualified medical professional of the alleged incapacitated person's physical and mental condition and why they believe a guardianship is necessary.

There is no limit to the number of people who can be co-guardians to one person, however, each person acting as co-guardian must consent to all the decisions made for the incapacitated individual. If they cannot agree, they may have to return to court to seek a court order.

## Temporary or Emergency Guardians

A temporary guardianship is appointed for a ward when an emergency occurs and the lack of one can cause irreparable harm to the ward. In that instance, an interested party may file an emergency petition for guardianship. The guardianship order may be effective for a maximum of 72 hours. If the emergency lasts longer, the party filing for guardianship can ask for an extension of 20 days past the original order's expiration date.

In the case of minors, the court typically appoints a temporary guardian when the child's parents have entered rehab for substance abuse addiction treatment or if they've been subject to emergency medical intervention as the result of substance abuse.

# WORKERS' COMPENSATION UPDATE

We have updated our Pennsylvania Workers' Compensation Handbook. Please contact us for a free copy.

## Reporting Injuries

Unless your employer has knowledge of your injury within 21 days of the injury, no compensation benefits are due until notice is given. Notice must be given no later than 120 days after the injury for compensation to be allowed.

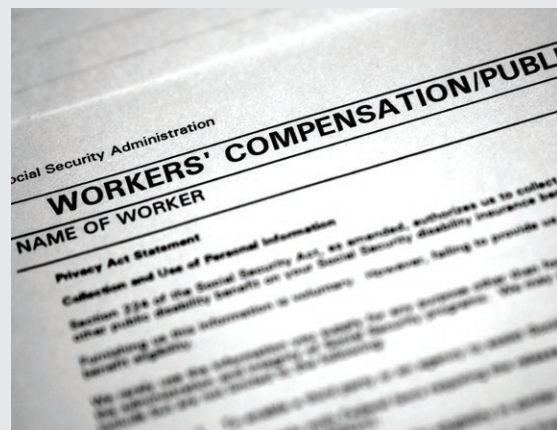
Your employer is required to immediately report all injuries to its insurer or, if self-

insured, the individual responsible for management of its workers' compensation program.

## Employee Compensation Benefits

Injured employees are entitled to employer-paid medical treatment and, if cumulative periods of disability exceed 7 days, wage loss benefits. Wage loss benefits must commence within 21 days of your employer's knowledge or notice of the injury resulting in disability, unless the claim is denied within

*(continued below)*



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## WORKERS' COMPENSATION UPDATE

*(continued)*

that time period. If your claim is denied, you have 3 years from the date of your injury to file a claim with the Bureau of Workers' Compensation.

Workers' compensation wage loss benefits can be reduced by wages received through other employment or self-employment. Wage loss benefits for injuries occurring after August 31, 1993, can be reduced by unemployment compensation benefits received. Wage loss benefits for injuries sustained after June 24, 1996, can be reduced

by 50 percent of "old age" Social Security benefits received, as well as employer-paid severance and pension plan benefits.

### Bureau of Workers' Compensation Contacts:

- Bureau of WC .....(717) 783-5421
- Helpline .....(800) 482-2383

### Reference Materials

The WC Act is available in soft form on the internet at [www.dli.state.pa.us](http://www.dli.state.pa.us) and in hard copy from the State Bookstore of PA, Commonwealth Keystone Building, Plaza Level, 400 North Street, Harrisburg, PA 17120.

Contact us for a copy of your Workers' Compensation Handbook.

**If your claim is denied, you have 3 years from the date of your injury to file a claim with the Bureau of Workers' Compensation.**