

## Supreme Court of Pennsylvania



## Appeal Docket Sheet

Docket Number: 41 EAP 2018

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March 29, 2024

## CAPTION

Donald Lowman, Appellee

v.

Unemployment Compensation Board of Review, Appellant

## CASE INFORMATION

Initiating Document: Order Granting Petition for Allowance of Appeal

Case Status: Closed

Journal Number: J-73-2019 September 11, 2019

Case Category: Administrative Agency

Case Type(s):

Unemployment Compensation  
Board of Review

## CONSOLIDATED CASES

## RELATED CASES

## COUNSEL INFORMATION

Attorney: Tarczy, Janet Marie  
PA Unemployment Compensation Board of Review  
Address: 651 Boas St Fl 10  
Harrisburg, PA 17121-0751  
Phone No: (717) 787-4186  
Receive Mail: Yes  
Receive EMail: Yes Email:  
Representing: Unemployment Compensation Board of Review, Appellant  
Pro Se: No  
IFP Status:

Attorney: Sajer, Marsha Anne  
Commonwealth of Pennsylvania Department of Labor and Industry  
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651 Boas St 10th Fl  
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Phone No: (717) 787-4186  
Receive Mail: Yes  
Receive EMail: Yes Email:  
Representing: Unemployment Compensation Board of Review, Appellant  
Pro Se: No  
IFP Status:  
Representing: Pennsylvania Department of Labor and Industry, Appellant Amicus Curiae  
Pro Se: No  
IFP Status:

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## COUNSEL INFORMATION

Attorney: Smyler, Denise Joy  
 PA Unemployment Compensation Board of Review  
 Address: 651 Boas St. Fl 10  
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 Phone No: (717) 787-4186  
 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Unemployment Compensation Board of Review, Appellant  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Department of Labor and Industry, Appellant Amicus Curiae  
 Pro Se: No  
 IFP Status:

Attorney: Westhafer, Shawn Charles  
 Pennsylvania Unemployment Compensation Board of Review  
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 651 Boas St Fl 10  
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 Representing: Unemployment Compensation Board of Review, Appellant  
 Pro Se: No  
 IFP Status:

Attorney: Giovanis, Christopher George  
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 Representing: Pennsylvania Department of Labor and Industry, Appellant Amicus Curiae  
 Pro Se: No  
 IFP Status:

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 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Pennsylvania Department of Labor and Industry, Appellant Amicus Curiae  
 Pro Se: No  
 IFP Status:

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## COUNSEL INFORMATION

Attorney:	Lantis, Paul Calvin	
	Littler Mendelson, P.C.	
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	1601 Cherry St Ste 1400	
	Philadelphia, PA 19102	
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Receive EMail:	Yes	Email:
Representing:	Uber Technologies, Inc., Appellee	
Pro Se:	No	
IFP Status:		

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Attorney:	Simon-Mishel, Julia Sarah	
	Philadelphia Legal Assistance	
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	718 Arch St Ste 300 N	
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Phone No:	(215) 981-3889	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Lowman, Donald, Appellee	
Pro Se:	No	
IFP Status:		

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Attorney:	Chaban, Lawrence R.	
	AlpernSchubert PC	
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	2727 Grant Bldg.	
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Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Pennsylvania Association for Justice, Amicus Curiae	
Pro Se:	No	
IFP Status:		

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## COUNSEL INFORMATION

Attorney:	Davy, James Patrick	
Address:	2362 E Harold St. Philadelphia, PA 19125	
Phone No:	(609) 273-5008	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	National Employment Lawyers Association - Eastern Pennsylvania, Amicus Curiae	
Pro Se:	No	
IFP Status:		
Representing:	Unemployment Compensation Clinic of the Duquesne University Law School, Amicus Curiae	
Pro Se:	No	
IFP Status:		
Representing:	Western Pennsylvania Employment Lawyers Association, Amicus Curiae	
Pro Se:	No	
IFP Status:		

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Attorney:	Dietrich, Sharon M.	
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Phone No:	(215) 981-3719	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Community Legal Services, Inc., Amicus Curiae	
Pro Se:	No	
IFP Status:		

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Attorney:	Stember, John Edward	
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Phone No:	(412) 338-1445	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Mon Valley Unemployment Committee, Amicus Curiae	
Pro Se:	No	
IFP Status:		
Representing:	National Employment Law Project, Amicus Curiae	
Pro Se:	No	
IFP Status:		

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## COUNSEL INFORMATION

Attorney: Elzer, Christine Teresa  
 Elzer Law Firm, LLC  
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 Pittsburgh, PA 15222  
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 Receive Mail: Yes  
 Representing: National Employment Lawyers Association - Eastern Pennsylvania, Amicus Curiae  
 Pro Se: No  
 IFP Status:  
 Representing: Unemployment Compensation Clinic of the Duquesne University Law School, Amicus Curiae  
 Pro Se: No  
 IFP Status:  
 Representing: Western Pennsylvania Employment Lawyers Association, Amicus Curiae  
 Pro Se: No  
 IFP Status:

## SUPREME COURT INFORMATION

Appeal From: the order of Commonwealth Court entered on 01/24/2018 at No. 686 CD 2016 reversing and remanding the order entered on 04/22/2016 by the Unemployment Compensation Board of Review at Nos. B-15-09-H-3978 and B-586362-A.

Probable Jurisdiction Noted: Docketed Date: December 26, 2018  
 Allocatur/Miscellaneous Granted: December 26, 2018 Allocatur/Miscellaneous Docket No.: 102 EAL 2018  
 Allocatur/Miscellaneous Grant Order: AND NOW, this 26th day of December, 2018, the Petition for Allowance of Appeal is GRANTED. The issues, as stated by petitioner are:

(1) Whether the Commonwealth Court's departure from a half a century of UC jurisprudence and substitution of a new common law test in derogation of statutory law calls for the exercise of the Pennsylvania Supreme Court's supervisory authority.

(2) Whether the Commonwealth Court's departure from precedent, which creates uncertainty as to eligibility for benefits, raises an issue of such substantial importance as to require prompt and definite resolution by the Pennsylvania Supreme Court.

## FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
08/07/2020	Petition for Reargument	15.00	08/07/2020	2020-SUP-E-002051	15.00

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## INTERMEDIATE APPELLATE COURT INFORMATION

Court Name:	Commonwealth	Docket Number:	686 CD 2016
Date of Order:	January 24, 2018	Rearg/Recon Disp Date:	
		Rearg/Recon Disposition:	
Judge(s):	Leavitt, Mary Hannah Cohn Jubelirer, Renee Brobson, P. Kevin McCullough, Patricia A. Covey, Anne E. Wojcik, Michael H. Hearthway, Julia K.		
Intermediate Appellate Court Action:	Reversed/Remanded		
Referring Court:			

## AGENCY/TRIAL COURT INFORMATION

Court Below:	Unemployment Compensation Board of Review		
County:		Division:	Unemployment Compensation Board of Review
Date of Agency/Trial Court Order:	April 22, 2016		
Docket Number:	B-15-09-H-3978		
Judge(s):		OTN:	
Order Type:	Order		

Court Below:	Unemployment Compensation Board of Review		
County:		Division:	Unemployment Compensation Board of Review
Date of Agency/Trial Court Order:	April 22, 2016		
Docket Number:	B-586362-A		
Judge(s):		OTN:	
Order Type:	Order		

## ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
Original Record	January 28, 2019	2 Parts
<b>Record Remittal:</b>	<b>October 1, 2020</b>	

## BRIEFING SCHEDULE

<b>Amicus Curiae</b>	<b>Appellee</b>		
<b>Community Legal Services, Inc.</b>	<b>Lowman, Donald</b>		
<b>Brief</b>	<b>Brief</b>		
Due: May 13, 2019	Filed: May 13, 2019	Due: May 13, 2019	Filed: May 13, 2019
<b>Mon Valley Unemployment Committee</b>	<b>Uber Technologies, Inc.</b>		
<b>Brief</b>	<b>Brief</b>		
Due: May 13, 2019	Filed: May 13, 2019	Due: March 13, 2019	Filed: March 13, 2019
<b>National Employment Law Project</b>	<b>Reply Brief</b>		

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## BRIEFING SCHEDULE

**Amicus Curiae**

**National Employment Law Project  
Brief**

Due: May 13, 2019

Filed: May 13, 2019

**Appellee**

**Uber Technologies, Inc.  
Reply Brief**

Due: June 12, 2019

Filed: June 12, 2019

**National Employment Lawyers Association - Eastern  
Pennsylvania  
Brief**

Due: May 13, 2019

Filed: May 13, 2019

**Pennsylvania Association for Justice  
Brief**

Due: May 13, 2019

Filed: May 13, 2019

**Unemployment Compensation Clinic of the Duquesne  
University Law School  
Brief**

Due: May 13, 2019

Filed: May 13, 2019

**Western Pennsylvania Employment Lawyers  
Association  
Brief**

Due: May 13, 2019

Filed: May 13, 2019

**Appellant**

**Unemployment Compensation Board of Review  
Brief**

Due: March 13, 2019

Filed: March 13, 2019

**Reply Brief**

Due: May 30, 2019

Filed:

**Reproduced Record**

Due: April 19, 2019

Filed: April 15, 2019

**Appellant Amicus Curiae**

**Pennsylvania Department of Labor and Industry  
Brief**

Due: March 13, 2019

Filed: March 13, 2019

## REARGUMENT / RECONSIDERATION / REMITTAL

Filed Date: August 7, 2020

Disposition: Order Denying Application for  
Reconsideration/Reargument

Date: September 4, 2020

Reargument Order: AND NOW, this 4th day of September, 2020, Uber Technologies, Inc.'s Application for  
Reargument is hereby DENIED.

Record Remittal: October 1, 2020

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## SESSION INFORMATION

Journal Number: J-73-2019  
 Listed/Submitted Date: September 11, 2019  
 Consideration Type: Oral Argument Supreme Ct.

## DISPOSITION INFORMATION

Related Journal No:	J-73-2019	Judgment Date:	July 24, 2020
Category:	Decided	Disposition Author:	Donohue, Christine
Disposition:	Affirmed/Remanded	Disposition Date:	July 24, 2020
Dispositional Filing:	<b>Majority Opinion</b>	Author:	Donohue, Christine
Filed Date:	July 24, 2020		
Justice:	Baer, Max	Vote:	Join Majority Opinion
Justice:	Todd, Debra	Vote:	Join Majority Opinion
Justice:	Dougherty, Kevin M.	Vote:	Join Majority Opinion
Justice:	Wecht, David N.	Vote:	Join Majority Opinion
Dispositional Filing:	<b>Dissenting Opinion</b>	Author:	Saylor, Thomas G.
Filed Date:	July 24, 2020		
Justice:	Mundy, Sallie U.	Vote:	Join Dissenting Opinion

## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>December 26, 2018</b>	<b>Allocatur Granted</b>		Per Curiam
Comments: AND NOW, this 26th day of December, 2018, the Petition for Allowance of Appeal is GRANTED. The issues, as stated by petitioner are:			
(1) Whether the Commonwealth Court's departure from a half a century of UC jurisprudence and substitution of a new common law test in derogation of statutory law calls for the exercise of the Pennsylvania Supreme Court's supervisory authority.			
(2) Whether the Commonwealth Court's departure from precedent, which creates uncertainty as to eligibility for benefits, raises an issue of such substantial importance as to require prompt and definite resolution by the Pennsylvania Supreme Court.			
<b>December 28, 2018</b>	<b>Commonwealth Court Record Received</b>		Commonwealth Court of Pennsylvania
<b>February 4, 2019</b>	<b>Application for Extension of Time to File Brief - First Request</b>	Appellant	Unemployment Compensation Board of Review

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## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 6, 2019	Order Granting Application for Extension of Time to File Appellant Brief		Person, John W., Jr.
Comments: AND NOW, this 6th day of February, 2019, Application For Extension of Time to File A Brief and to Establish a Responsive Briefing Schedule is GRANTED in part. Appellant's Brief is due on or before March 13, 2019. Appellee's Brief is due within 30 days after service of Appellant's Brief. Intervenor must follow Pa.R.A.P. 2102.			
February 6, 2019	Order Exited		Office of the Prothonotary
March 13, 2019	Appellant's Brief	Appellant	Unemployment Compensation Board of Review
March 13, 2019	Brief of Intervenor Uber Technologies, Inc. in Support of the April 22, 2016 Order of the UCBR	Appellee	Uber Technologies, Inc.
March 13, 2019	Appellant Amicus Curiae Brief	Appellant Amicus Curiae	Pennsylvania Department of Labor and Industry
March 25, 2019	Application for Leave to File Reproduced Record Nunc Pro Tunc	Appellant	Unemployment Compensation Board of Review
April 2, 2019	Application for Extension of Time to File Brief - First Request	Appellee	Lowman, Donald
April 2, 2019	Order Granting Application for Extension of Time to File Appellee Brief		Person, John W., Jr.
Comments: AND NOW, this 2nd day of April, 2019, Application For Extension of Time is GRANTED. Appellee's Brief is due on or before May 13, 2019.			
April 2, 2019	Order Exited		Office of the Prothonotary
April 11, 2019	Order Granting Application for Leave to File the Reproduced Record Nunc Pro Tunc		Person, John W., Jr.
Comments: AND NOW, this 11th day of April, 2019, Application For Leave To File Reproduced Record Nunc Pro Tunc is GRANTED. Appellant must file the Reproduced Record on or before April 19, 2019.			
April 11, 2019	Order Exited		Office of the Prothonotary
April 15, 2019	Appellant's Reproduced Record Filed	Appellant	Unemployment Compensation Board of Review
May 13, 2019	Amicus Curiae Brief	Amicus Curiae	Pennsylvania Association for Justice

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## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
May 13, 2019	Amicus Curiae Brief	Amicus Curiae	Community Legal Services, Inc.
May 13, 2019	Amicus Curiae Brief	Amicus Curiae	Unemployment Compensation Clinic of the Duquesne University Law School
		Amicus Curiae	Western Pennsylvania Employment Lawyers Association
		Amicus Curiae	National Employment Lawyers Association - Eastern Pennsylvania
May 13, 2019	Appellee's Brief	Appellee	Lowman, Donald
May 13, 2019	Amicus Curiae Brief	Amicus Curiae	Mon Valley Unemployment Committee
May 17, 2019	Praecepte for Appearance Pennsylvania Association for Justice	Amicus Curiae	Chaban, Lawrence R.
May 21, 2019	Application for Extension of Time to File Brief - First Request	Appellee	Uber Technologies, Inc.
May 23, 2019	Order Granting Application for Extension of Time to File Brief		Person, John W., Jr.
Comments: AND NOW, this 23rd day of May, 2019, Application For Extension of Time is GRANTED. Intervenor's Reply Brief is due on or before June 12, 2019.			
May 23, 2019	Order Exited		Office of the Prothonotary
June 12, 2019	Appellee's Reply Brief	Appellee	Uber Technologies, Inc.
July 15, 2019	Acknowledgement of Argument Notice Uber Technologies, Inc.	Appellee	Lantis, Paul Calvin
July 17, 2019	Acknowledgement of Argument Notice Unemployment Compensation Board of Review	Appellant	Tarczy, Janet Marie
July 17, 2019	Acknowledgement of Argument Notice Lowman, Donald	Appellee	Simon-Mishel, Julia Sarah

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## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>September 11, 2019</b>	<b>Argued</b>		
	Unemployment Compensation Board of Review	Appellant	Tarczy, Janet Marie
	Uber Technologies, Inc.	Appellee	Lantis, Paul Calvin
	Lowman, Donald	Appellee	Simon-Mishel, Julia Sarah
<b>July 24, 2020</b>	<b>Affirmed/Remanded</b>		
			Donohue, Christine
Comments:			
We affirm the decision of the Commonwealth Court finding that Lowman was not self-employed. We remand for the purpose of determining the calculation of Lowman's unemployment benefits.			
Justices Baer, Todd, Dougherty and Wecht join the opinion.			
Chief Justice Saylor files a dissenting opinion in which Justice Mundy joins.			
<b>July 24, 2020</b>	<b>Judgment Entered</b>		
			Office of the Prothonotary
<b>August 7, 2020</b>	<b>Application for Reargument</b>		
		Appellee	Uber Technologies, Inc.
<b>September 4, 2020</b>	<b>Order Denying Application for Reconsideration/Reargument</b>		
			Per Curiam
Comments:			
AND NOW, this 4th day of September, 2020, Uber Technologies, Inc.'s Application for Reargument is hereby DENIED.			
<b>September 4, 2020</b>	<b>Order Exited</b>		
			Office of the Prothonotary
<b>October 1, 2020</b>	<b>Original Record Remitted to the Commonwealth Court of Pennsylvania</b>		
			Office of the Prothonotary

## CROSS COURT ACTIONS

Docket Number: 102 EAL 2018  
Docket Number: 686 CD 2016