



## CAPTION

Federated Insurance Company

v.

Summit Pharmacy (Bureau of Workers' Compensation Fee Review Hearing Office)

Petition of: Summit Pharmacy

## CASE INFORMATION

Initiating Document: Petition for Allowance of Appeal

Case Status: Closed

Journal Number:

Case Category: Administrative Agency

Case Type(s):

Workers' Compensation Appeal  
Board - Fee

## CONSOLIDATED CASES

## RELATED CASES

## COUNSEL INFORMATION

Attorney: Siegel, Daniel Joel  
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 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Summit Pharmacy, Petitioner  
 Pro Se: No  
 IFP Status:

Attorney: High, Christa Frank  
 Law Offices of Daniel J. Siegel, LLC  
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 Havertown, PA 19083  
 Phone No: (610) 446-3457  
 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Summit Pharmacy, Petitioner  
 Pro Se: No  
 IFP Status:



### COUNSEL INFORMATION

Attorney: Hanford, Jason  
 Chartwell Law Offices, LLP (The)  
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 Representing: Federated Insurance Company, Respondent  
 Pro Se: No  
 IFP Status:

Attorney: Goldstein, Clifford A.  
 Self employed  
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 Merion Station, PA 19066  
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 Receive EMail: Yes Email:  
 Representing: Federated Insurance Company, Respondent  
 Pro Se: No  
 IFP Status:

### SUPREME COURT INFORMATION

Appeal From:

Appeal Filed Below:

Probable Jurisdiction Noted: Docketed Date: January 30, 2024  
 Allocatur/Miscellaneous Granted: Allocatur/Miscellaneous Docket No.:  
 Allocatur/Miscellaneous Grant Order:

### FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
01/30/2024	Petition for Allowance of Appeal Filed	90.25	01/30/2024	2024-SUP-M-000265	90.25

### INTERMEDIATE APPELLATE COURT INFORMATION

Court Name: Commonwealth Docket Number: 115 CD 2023  
 Date of Order: January 2, 2024 Rearg/Recon Disp Date:  
 Rearg/Recon Disposition:  
 Judge(s): Cohn Jubelirer, Renee  
 McCullough, Patricia A.  
 Covey, Anne E.  
 Wojcik, Michael H.  
 Fizzano Cannon, Christine  
 Dumas, Lori A.  
 Wallace, Stacy

Intermediate Appellate Court Action: Reversed/Remanded  
 Referring Court:


**AGENCY/TRIAL COURT INFORMATION**

Court Below: Bureau of Workers' Compensation  
 County: Division: Bureau of Workers' Compensation  
 Date of Agency/Trial Court Order: January 11, 2023  
 Docket Number: DSP-3625674-22  
 Judge(s): OTN:  
 Order Type: Order

**ORIGINAL RECORD CONTENT**

Original Record Item	Filed Date	Content/Description
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**Record Remittal:**
**DISPOSITION INFORMATION**

Related Journal No: Judgment Date:  
 Category: Decided Disposition Author: Per Curiam  
 Disposition: Order Granting Petition for Allowance of Appeal Disposition Date: August 27, 2024  
 Dispositional Filing: Author:  
 Filed Date:

**DOCKET ENTRY**

Filed Date	Docket Entry / Representing	Participant Type	Filed By
January 30, 2024	Petition for Allowance of Appeal	Petitioner	Summit Pharmacy
January 30, 2024	Reproduced Record	Petitioner	Summit Pharmacy
February 13, 2024	Answer to Petition for Allowance of Appeal	Respondent	Federated Insurance Company
March 26, 2024	Application for Supersedeas / Stay Pending Appeal	Petitioner	Summit Pharmacy
April 5, 2024	Answer to Application for Supersedeas / Stay Pending Appeal	Respondent	Federated Insurance Company



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
August 27, 2024	Order Granting Petition for Allowance of Appeal		Per Curiam

## Comments:

AND NOW, this 27th day of August, 2024, the Petition for Allowance of Appeal is GRANTED. The issues, as stated by petitioner are:

- (1) Did Commonwealth Court exceed its authority when it substituted its judgment for that of the General Assembly, by limiting the authority of the Bureau of Workers' Compensation to specify which prescription drug fee schedule it may choose to resolve disputes, 34 Pa. Code § 127.131(b), when that function is properly reserved for the legislature and the Bureau of Workers' Compensation?
- (2) By invalidating the Red Book as the standard for determining the "average wholesale price" of pharmaceutical products, did Commonwealth Court err by construing "average wholesale price" according to its common meaning rather than according to its meaning within the pharmaceutical industry?
- (3) Did Commonwealth [Court] err by sub silentio invalidating all statutes or regulations in Pennsylvania that base payment for pharmaceuticals on the Red Book, including childhood immunizations and the PACE Program, both of which are also based on Red Book values?

The parties are further directed to address the preliminary issue of whether the Commonwealth Court's order is appealable. The Petition for Supersedeas and/or Stay Pending Appeal is DENIED.

August 27, 2024	Order Exited		Office of the Prothonotary
August 27, 2024	Case was transferred to 64 MAP 2024		Office of the Prothonotary

## Comments:

Case was transferred to 64 MAP 2024

## CROSS COURT ACTIONS

Docket Number: 115 CD 2023  
Docket Number: 64 MAP 2024