

**[J-68-2005]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

GLORIA ROMAINE,	:	No. 62 EAP 2004
	:	
Appellant	:	Appeal from the order of the
	:	Commonwealth Court dated August 18,
v.	:	2004 at 626 CD 2004 affirming the order
	:	of the Workers' Compensation Appeal
WORKERS' COMPENSATION APPEAL	:	Board dated March 12, 2004 at A03-2156.
BOARD (BRYN MAWR CHATEAU	:	
NURSING HOME),	:	
	:	
Appellees	:	SUBMITTED: March 28, 2005
	:	

**CONCURRING OPINION**

**MR. CHIEF JUSTICE CAPPY**

**DECIDED: JUNE 22, 2006**

I join the majority opinion in all respects save for its discussion of the allocation of the burden of proof regarding satisfaction of the statute of limitations found in Section 413 of the Workers' Compensation Act. I join Justice Saylor's Concurring Opinion with respect to this point. Indeed, as noted by Justice Saylor, the majority's assertion that Section 413 "operates as a bar to the right as well as the remedy," Majority Slip Op. at 14, implying it is a statute of repose, is in direct contravention of this Court's prior and still-standing precedent. Smith v. WCAB (Concept Planners & Designers), 670 A.2d 1146, 1148-49 (Pa. 1996) (holding Section 413(a) to be a statute of limitations as "it operates in a way that, practically speaking, extinguishes a remedy rather than a right").

Mr. Justice Eakin joins this concurring opinion.