

# Jacobs Law Group News

**Business Lawyers and Litigators**

**June 2006**

## **Only Lawyers Can Represent Employers at Unemployment Compensation Hearings**

Many employers view Unemployment Compensation as a low cost tax, and the UC Hearings as a low cost way for the HR department to weed out the truly undeserving former employees from benefiting from this necessary safety net in a civilized society. The low cost part is changing.

The Pennsylvania Commonwealth Court has ruled in *Harkness v UCAB* (Macy's Department Store), that a non-attorney, such as a corporation's HR manager, may not represent the employer at its UC hearings. The court acknowledged that, historically, the nature of UC hearings are informal and the amounts in controversy small (typically just a few hundreds dollars per week for 26 weeks of benefits).

Nevertheless, these facts do not define whether the activity itself is the practice of law. What makes an activity the "practice of law" is determined by whether it requires the "application of legal knowledge and technique." UC hearings definitely require that, the court held, since non-attorneys at UC hearings present evidence, make objections to testimony and exhibits, and advocate for conclusions of law such as a finding that a former employee was discharged for willful misconduct which excludes them from receiving benefits. These are things that only a lawyer can do, as determined by prior state Supreme Court opinions.

As a result, the court held that for all future UC hearings, non-attorneys may not represent employers. Some legislative changes are being planned to attempt to reinstate the prior procedures for UC hearings, but even those changes may not bring back the good old days of informal, non-attorney, low-cost UC Hearings: The state constitution places the control of the legal profession in the Supreme Court's hands, not the legislature's. It remains to be seen whether the legislature's changes will stick.

**Jacobs Law Group, PC**  
**1800 JFK Blvd, Suite 404**  
**Philadelphia, PA 19103**  
**Phone: 215-569-9701**  
**Fax: 215-569-9788**

**e-mail:** [info@jacobslawpc.com](mailto:info@jacobslawpc.com)

**Web:** [www.jacobslawpc.com](http://www.jacobslawpc.com)