

It is finally Spring and time for an update on Connecticut Workers' Compensation Law from Strunk Dodge Aiken Zovas.

CASE LAW UPDATES:

In a recent Connecticut workers' compensation case, the Connecticut Supreme Court held that a widow was not required to file a separate notice of claim for survivor's benefits because her spouse, before his death, had filed a timely claim. In *McCullough v. Swan Engraving, Inc.*, 320 Conn. 299 (February 2, 2016), the Supreme Court concluded that since an underlying lung injury had been timely noticed by an injured worker it was not necessary to file a widow's claim. The Supreme Court's ruling means that in a case where the injured worker's claim was timely filed there is no requirement for the widow, and presumably other dependents, to file a notice of claim for compensation if the claimant thereafter dies. The effects of the *McCullough* decision were quickly felt when the compensation review board in a recent decision overturned a dismissal that had been entered by a trial commissioner for failure to file a notice of claim by a widow. *Quinn v. Stone & Webster Engineering Corp.*, 6016 CRB-8-15-5 (March 31, 2016).

In *Menard v. Willimantic Waste Paper Company*, 163 Conn. App. 362 (March 1, 2016), the Appellate Court determined that for the purposes of calculation of the average weekly wage that vacation weeks and pay should be included in the calculation. In *Menard*, the claimant contended that the vacation weeks should not be added into the divisor in the calculation; the Court disagreed and said that "all wages earned by the plaintiff in the relevant time period are to be included in the dividend and that all weeks in which the plaintiff was actually employed and earning wages are to be included in the divisor." The moral to the story: include vacation weeks and earnings in your AWW calculation.

In the recent compensation review board case of *Zbras v. Northeast Mortgage Corp.*, 5997 CRB-5-15-3 (March 29, 2016) the board denied a carrier's request for reimbursement of prescription medical expenses that the carrier inadvertently had paid notwithstanding a prior agreement that the claimant would be weaned off medications and the carrier's liability would end. The board viewed the ongoing prescription payments by the carrier as a unilateral mistake and therefore did not allow reimbursement by

the carrier. Based on this case, it may be difficult to obtain reimbursement for medical or indemnity benefits where they were paid based on the carrier's own mistake.

In the case of *Drayton vs. Electric Boat Corporation*, 5994 CRB-2-15-3, (April 7, 2016), the CRB affirmed a finding and dismissal of a back injury from 1977. The board concluded that ultimately it was up to the commissioner to judge the credibility of the claimant and medical doctors. Attorney Lucas Strunk of Strunk Dodge Aiken Zovas successfully defended the claim in behalf of the respondents.

NEWS AND NOTES:

Recently Attorney Jason M. Dodge of Strunk Dodge Aiken Zovas was inducted into the College of Workers' Compensation Lawyers at an induction ceremony in New Orleans. The College has been established to honor those attorneys who have distinguished themselves in their practice in the field of workers' compensation. Attorney Dodge joins his partner, Attorney Lucas Strunk, as a Fellow in the College. Only five other Connecticut attorneys have been honored with induction into the College.

Attorneys Richard Aiken, Lucas Strunk and Jason Dodge of Strunk Dodge Aiken Zovas have just been named to Best Lawyers in New England for 2016.

All of Strunk Dodge Aiken Zovas' partners, Attorneys Anne Zovas, Richard Aiken, Jason Dodge and Lucas Strunk, are AV rated by Martindale-Hubbell. The legal rating agency states that an AV rating is "is a significant rating accomplishment and a testament to the fact that a lawyer's peers rank him or her at the highest level of professional excellence."

On March 31, 2016 Attorney Anne Zovas hosted a comedy night event in Hartford for the benefit of the Hartford County Bar Foundation called "Stand Up for Charity". The show was well attended and made for an enjoyable night. Attorney Zovas is on the Board of Directors for the Foundation and is a past president.

PRACTICE TIP:

When authorizing medical treatment in writing to the treating medical provider it is recommended that a carbon copy be sent to the claimant or his attorney and your defense counsel. Many hearings and delays can be avoided if authorizations are sent to the claimant's representative.

Seminars:

Strunk Dodge Aiken Zovas can provide your company with workers' compensation seminars pertaining to various issues including review of the workers' compensation time line and subrogation. We can tailor our seminars from elementary to complex litigation issues. Please contact us if you would like to schedule a presentation.



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