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ATTORNEYS AT LAW



CONNECTICUT WORKERS' COMP UPDATE

The law firm of **Strunk Dodge Aiken Zovas (SDAZ)** provides you with our **Fall 2022 WORKERS' COMPENSATION UPDATE**. We wish to all a happy and healthy Thanksgiving holiday! Please feel free to share this update with your colleagues. If someone inadvertently has been left off our email list and would like to receive future updates they can contact **Jason Dodge** at jdodge@ctworkcomp.com or 860-785-4503.

STRUNK DODGE AIKEN ZOVAS NEWS

Super Lawyers have issued their rankings for 2022. **Attorney Jason Dodge of SDAZ** was named to the "Top 50" lawyers for Connecticut in all fields of law in the 2022 Connecticut Super Lawyers nomination, research and Blue Ribbon process. **Attorney Richard Aiken** was also named a Super Lawyer in the field of workers' compensation law. **Attorneys Christopher D'Angelo and Philip Markuszka** were named "Rising Stars" in workers' compensation law.

Strunk Dodge Aiken Zovas has been named by Best Lawyers as a 2023 Tier 1 “Best Law Firm.” Best Lawyers is the oldest and most respected lawyer ranking service in the world. The U.S. News – Best Lawyers® "Best Law Firms" rankings are based on a rigorous evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys in the field, and review of additional information provided by law firms as part of the formal submission process.

Attorney Jason Dodge of SDAZ has been named by Best Lawyers as the 2023 “Lawyer of the Year” for workers’ compensation law-employers in the Hartford region.

Attorneys Lucas Strunk, Richard Aiken, Heather Porto and Courtney Stabnick of SDAZ have been selected by their peers for recognition of their professional excellence in the 29th edition of *The Best Lawyers in America*.

Attorney Richard Aiken of SDAZ has been named the recipient of the Pomeranz-O’Brien award from the Connecticut Bar Association. The Pomeranz-O’Brien Award is presented to a practitioner who has, over the course of a career, exhibited excellence in the practice of workers’ compensation law, and/or made outstanding and extraordinary contributions to the practice. Attorney Aiken is a former Chair of the Connecticut Bar Association’s Workers’ Compensation Section and runs the CBA Golf Event every year that donates generously to Food Share. The award was given to Rick at the CBA Golf Event on September 15. Congratulations to Rick!

SDAZ is pleased to announce that Attorney Missy Bailey has joined our firm as a first-year associate. Melissa (Missy) Bailey received her Bachelor of Arts degree in political science, Magna Cum Laude, from Franklin Pierce University in 2018 (member, Pi Sigma Alpha). She graduated from Western New England University School of Law in May 2022. Missy has been with the firm as a legal assistant/law clerk since June 2016 prior to becoming an associate in October 2022. Attorney Bailey will represent municipalities and self-insurers as well as insured employers before the Connecticut Workers’ Compensation Commission. She is admitted to practice in Connecticut and is a member of the Connecticut Bar Association. Missy can be reached at 860-785-4500 x4527. Her email is mbailey@ctworkcomp.com

Strunk Dodge Aiken Zovas has been named the Connecticut representative of the National Workers’ compensation Defense Network. The NWCDN is a nationwide network of workers’ compensation defense law firms that partner with other attorneys to provide clients with expertise, education, and guidance in the field of workers’ compensation. Only one firm per state is selected for this prestigious organization. If representation is needed in a state outside of Connecticut, the NWCDN network provides a vetted list of law firms that can provide excellent legal assistance to clients of **SDAZ**.

Attorney Philip Markuszka of SDAZ was approved on October 25, 2022 unanimously by the Glastonbury Town Council to serve on the Town Plan and Zoning Commission.

Attorney Christopher Buccini of SDAZ has been named to the Connecticut Bar Association's Workers' Compensation Section Executive Committee. **Attorneys Aiken, Strunk, and Dodge of SDAZ** are already on the Committee.

Attorney Buccini has also been appointed as an Editor to the Compensation Quarterly, a publication of the Workers' Compensation section of the Connecticut Bar Association which reviews topics and case law regarding workers' compensation in Connecticut.

The 2021-2022 supplement to the Connecticut workers' compensation treatise ***Connecticut Workers' Compensation Law*** published by Thomson Reuters was issued in December 2021. This two-volume treatise co-authored by **Attorneys Jason Dodge and Lucas Strunk of SDAZ**, and Attorneys James Pomeranz, Robert Carter and Donna Civitello provides a broad and historical view of Connecticut Workers' Compensation Law and discusses current issues, both in decisional law and in legislative trends. The treatise can be purchased online at:

<https://store.legal.thomsonreuters.com/law-products/Treatises/Connecticut-Workers-Compensation-Law-Vols-19-and-19A-Connecticut-Practice-Series/p/100006513>

Kids' Chance of Connecticut had its annual charity golf event on September 26, 2022 at Glastonbury Hills Country Club. The event was a success with over 90 golfers participating. **Attorneys Jason Dodge and Philip Markuszka of SDAZ** are Board members of Kids' Chance of Connecticut. The mission of Kids' Chance of Connecticut is to provide educational scholarships to the children of Connecticut workers who have been seriously or fatally injured in work-related accidents. If you or your organization wish to become involved in this worthy charity please contact Jason or Phil. For the 2022-2023 academic year KCOC has awarded scholarships totaling \$35,000. If you are aware of a child who may qualify for a scholarship to a college or technical school please go to the following website for an application www.kidschanceofct.org.

You can now follow us on Facebook at <https://www.facebook.com/Strunk-Dodge-Aiken-Zovas-709895565750751/>

SDAZ can provide your company with free seminars regarding Connecticut Workers' Compensation issues. Please contact us about tailoring a seminar to address your particular needs.

We do appreciate referrals for workers' compensation defense legal work. When referring new files to SDAZ for workers' compensation defense please send them to one of the attorneys' email:

azovas@ctworkcomp.com,	raiken@ctworkcomp.com,	
lstrunk@ctworkcomp.com,	jdodge@ctworkcomp.com,	HPorto@ctworkcomp.com,
nberdon@ctworkcomp.com,	cstabnick@ctworkcomp.com,	cbuccini@ctworkcomp.com,
pmarkuszka@ctworkcomp.com,	cdangelo@ctworkcomp.com,	rstabnick@ctworkcomp.com ,

mbailey@ctworkcomp.com or by regular mail. We will respond acknowledging receipt of the file and provide you with our recommendations for defense strategy.

Please contact us if you would like a copy of our laminated “Connecticut Workers’ Compensation at a glance” that gives a good summary of Connecticut Workers’ Compensation law to keep at your desk.

OUR ATTORNEYS:

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LEGISLATIVE UPDATE



2022 LEGISLATIVE REPORT

Our 2022 legislative report can be found in the link below for our Summer 2022 update:

<https://www.ctworkcomp.com/wp-content/uploads/2022/08/Summer-2022-work-comp-update.pdf>

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CONNECTICUT WORKERS' COMPENSATION COMMISSION NEWS

RETIREMENT NEWS:

On October 6, 2022, a retirement celebration was held for Administrative Law Judge Randy L. Cohen at the Waters Edge at Giovanni's in Darien. Best Wishes to Judge Cohen on her retirement! We thank her for her service to the Workers' Compensation Commission since being appointed in 2007. Judge Cohen's prior experience as a Board-Certified Workers' Compensation claimant's attorney was an asset to the Commission for both claimants and respondents. Judge Cohen's dedication to the Commission continues as she will assist with pre-formal hearings in the Seventh District per diem, as needed. Judge Cohen also will be performing private mediation in workers' compensation cases in her new business RESOLVE IT!

Memorandum 2022-09:

Memorandum 2022-09 has been issued by Chief Administrative Law Judge Morelli regarding maximum compensation rates. The Chairman has ordered that the maximum total disability rate for injuries occurring after October 1, 2022 is \$1,509 (based on the estimated average weekly wage of all employees in Connecticut). The maximum temporary partial/permanent partial disability rate for accidents after October 1, 2022 is \$1,108 (based on the average weekly earnings of production and related workers in manufacturing in Connecticut).

Please note that the TP/PPD maximum rate went down from \$1,140 in 2021 to \$1,108 in 2022.

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2022-Memos/Memorandum-No-2022-09>

Memorandum 2022-12

The Workers' Compensation Commission has developed an online filing Form 6B for officers of a corporation or a member of a limited liability company who wishes to be excluded from workers' compensation coverage. That link will be available at the commission website as of December 15, 2022.

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2022-Memos/Memorandum-No-2022-12>

Administrative Law Judge News:

Administrative Law Judge Zachary Delaney of West Hartford has begun presiding in the Fifth District in Waterbury.

Attorney Nancy Bonuomo has been presiding as interim Administrative Law Judge.

Mileage rates:

Not surprisingly, as on January 1, 2022 the mileage rate increased to 58.5 cents per mile. As of July 1, 2022 that rate has increased further to 62.5 cents per mile.

Mediation within the Commission:

Memorandum 2022-05 has been issued by the Workers' Compensation Commission updating the guidelines for mediation in the Commission. The following Judges have agreed to participate in the mediation process: Scott A. Barton (District 5/Waterbury), Carolyn M. Colangelo (District 3/New Haven), Daniel E. Dilzer (District 6/New Britain), Maureen E. Driscoll (District 3/New Haven), Brenda D. Jannotta (District 4/Bridgeport), Peter C. Mlynarczyk (District 8/Middletown), Michelle D. Truglia (District 4/Bridgeport), and William J. Watson III (District 1/Hartford).

Revisions to Forms 30C and 30D:

Memorandum No. 2022-04 has been issued which states:

Pursuant to Public Act 22-139, the Workers' Compensation Commission (WCC) is required to maintain and report a record of all workers' compensation cancer claims made by firefighters. In order to accurately collect and record this data, WCC Form 30C "Notice of Claim for Compensation" and Form 30D "Dependents' Notice of Claim" have been revised. The revision of WCC Form 30C also includes a change to reflect post-traumatic stress injuries made pursuant to C.G.S. Section 31-294k. Please use the most recent revisions of Forms 30C and 30D and check the appropriate box(es) when filing new claims.

Burial Fees:

As of January 1, 2022, the burial fee for deaths covered under the Workers' Compensation Act is \$12,516.00 based on the overall 2021 CPI-W increase for the northeast of 4.3%. Connecticut General Statutes Section 31-306 was amended in 2021 to reflect that the compensation for burial benefits will be adjusted by the percentage increase in the consumer price index for urban wage earners and clerical workers in the Northeast as defined in the United States Department of Labor's Bureau of Labor Statistics.

CRB Appointments:

Chief Administrative Law Judge Morelli has appointed Administrative Law Judges Toni M. Fatone and Soline M. Oslena to sit as panel members on appeals before the Compensation Review Board for the calendar year beginning January 1, 2023.

Memorandum 2022-02

This Memorandum discusses the way an employer opts out of coverage:

Connecticut General Statutes §31-275(10) sets forth the procedure to be used by an employer who opts in and/or out of coverage under the Workers' Compensation Act. On July 17, 2013, and pursuant to the authority granted to the Chairman by C.G.S. §31-321, Forms 6B, 6B-1, and 75 were amended to include the instructions that all such documents should be submitted to the office of the Chairman at 21 Oak Street, Hartford, CT 06106.

Public Act 21-76 §17(b) has further clarified the manner in which these forms may be filed. Although §1-268(d) of Chapter 15, the Connecticut Uniform Electronic Transactions Act, states that it does "not apply to any of the rules of court practice and procedure under the Connecticut Practice Book," the filing of Forms 6B, 6B-1, and 75 are administrative in nature and not legal pleadings. As such, notwithstanding the language in C.G.S. §31-275(10) that requires these documents to be sent certified mail, return receipt requested, they may now be delivered to the office of the Chairman by electronic means with proof of a delivery receipt. The email address to be used for electronic submissions of these forms is WCC.Forms@ct.gov.

Exam Charges:

Commission Medical Exam (CME) fee has increased to \$900; Respondent Medical Exam (RME) fee is still \$750.

The Commission does have a website where you can look up such information as to whether a hearing is assigned, list of all claims for an employee, status of a Form 36, and interested parties. This is quite a useful site and is a different website than the Commission's main site. It can be found at:

<http://stg-pars.wcc.ct.gov/Default.aspx>

WORKERS' COMPENSATION PRACTICE TIP

Don't forget to protect your lien! Whenever you have a claim that involves a third party, whether it is a motor vehicle accident or a slip and fall, we strongly recommend that you place the potential third party and the injured worker on notice of your lien immediately. This will protect your lien in the event that the injured worker accepts a quick third party settlement from the liability carrier and attempts to circumvent C.G.S., Sec. 31-293. Please contact Attorney Courtney Stabnick, manager of the SDAZ subrogation department, with any subrogation questions that you may have.

CASE LAW

JUAN CRUZ V SPEC PERSONNEL, HHD-CV18-5051489-S (2022)

In this lawsuit in Connecticut Superior Court the plaintiff was pursuing a negligence claim for significant injuries that he sustained while working in a warehouse. A forklift operator for another company caused an 800 pound pallet to fall 30 feet crushing the plaintiff. The plaintiff was paralyzed due to the accident. The plaintiff was paid workers' compensation benefits following the accident. The lawsuit was brought against the forklift operator, his employer, and the company that packaged the product that fell on the plaintiff. A verdict was issued for \$100,000,000 (yes 100 million) in favor of the plaintiff and his wife (for loss of consortium claim). This is believed to be the largest verdict for a plaintiff in a Connecticut Superior Court lawsuit. **Strunk Dodge Aiken Zovas Attorney Courtney Stabnick** represented the co-plaintiff in the case, the employer of the plaintiff, seeking to recover reimbursement of its workers' compensation lien. Attorney Andrew Garza represented the injured employee. Attorney Garza stated this on Facebook regarding his work with Attorney Stabnick in the case: "I'm thankful for the work of Attorney Courtney Stabnick. She's a wonderful person and advocate for her clients and she understands there's a human element to the work we do. Too often the default position of lawyers is to be adversarial, because it's how they're trained. Her work in this case reflects a high-level understanding of the complex and interrelated dynamics at play in a hybrid workers' compensation-personal injury case. The best lawyers seek agreement, when possible, but never compromise on fundamentals. Her work resulted in a wonderful outcome for her clients, where the true, culpable party was held responsible and made to repay the damage they caused, and the claimant/plaintiff was supported during the process. Win-win solutions are rare and should be celebrated. Thank you for your work on this case."

NORDBY V. TOWN OF WATERTOWN, 6445 CRB-5-21-9 (September 2, 2022)

The CRB affirmed a finding establishing compensability of a right knee replacement surgery and the order to pay for medical treatment and indemnity associated with the claim. The claimant alleged an injury to his right knee while setting up musical risers on December 15, 2015. He underwent arthroscopy on August 11, 2017 and total right knee replacement surgery on October 9, 2018. The treating doctor provided a causation opinion in favor of the claimant but a RME physician concluded that the surgeries were not related to the 2015 incident. The ALJ found that the knee surgeries were due to the 2015 incident and ordered that indemnity and medical bills associated with the surgeries be paid. The respondents filed a motion to correct the finding which was denied; the ALJ did order per request of the claimant that additional hearings would be scheduled if there was no agreement regarding benefits owed. On appeal the respondents did not appeal the causation finding (presumably because that was a finding of fact supported by the evidence), however, they questioned the ALJ's order to pay indemnity and medical bills since there was no evidence in the record as to periods of disability or medical bills that were owed. The CRB concluded that the scope of the hearing was solely to address compensability of the claim and surgeries alone and that

if there was no agreement as to the amounts owed then additional hearings could be held. The CRB considered the respondents' appeal "premature" since additional hearings could be held to address what was owed. **Attorney Collette Griffin** defended the claim for the respondents.

CAYE V. THYSSENKRUPP ELEVATOR, 6442 CRB-1-21-9 (September 16, 2022)

The claimant sustained a significant compensable injury to his right leg which resulted in an amputation. He obtained a prosthesis through a Connecticut company but it did not fit well. Eventually the claimant was authorized to obtain a prosthesis from a New York company. For more than five years the claimant received prosthetic care with the New York company. His treating doctor in Connecticut, Dr. Leslie, recommended continued care of the prosthesis by the New York company. The respondents objected to the New York company treatment contending that similar treatment for the prosthesis could be found in Connecticut. Dr. Memmo, the RME, and Dr. Kaplan, the CME, both stated that there was prosthetic care in Connecticut that could be provided to the claimant. There was testimony presented regarding delay in authorization of treatment. At the formal hearing the issue was authorization of the out-of-state treatment for the prosthesis, reimbursement for a shipping charge regarding the prosthesis to the New York company that was paid by the claimant, and a claim for undue delay pursuant to Connecticut General Statutes Section 31-300. The ALJ found that the out-of-state treatment was authorized, the claimant was entitled to reimbursement of the shipping costs, and that there was undue delay and ordered \$16,862.50 in attorneys fees to be paid based on an affidavit of fees submitted by the claimant attorney. The ALJ in rejecting the opinions of Dr. Memmo and Dr. Kaplan found that there was no evidence in the record that they had an expertise in the area of prosthetics. The CRB affirmed the finding regarding authorization of the New York company concluding that the issue of authorization of out of state treatment was whether the treatment was reasonable or necessary, citing the case of *Melendez v. Home Depot*, 61 Conn. App. 653 (2001). The Board determined that the finding in *Cummings v. Twin Manufacturing Inc.*, 29 Conn App. 249 (1992), that out of state treatment could not be provided if there was equally beneficial treatment in Connecticut was "particular to the circumstances of that case." The CRB affirmed the claim for reimbursement of the shipping costs but remanded the case for further articulation regarding whether the New York firm was subject to the Connecticut Fee schedule. The Board also remanded the case to allow the respondents to investigate the validity of the legal fee affidavit submitted by claimant's attorney.

WILSON V. YALE UNIVERSITY, 6459 CRB-4-21-12 (September 12, 2022)

In a contested workers' compensation claim the claimant settled her case before Judge Barton on July 17, 2019 for \$40,000; the stipulation was explained to the claimant on the record and the claimant stated that she understood the final nature of the proposed settlement. After the settlement was approved and check received the claimant sought to open the settlement pursuant to Connecticut General Statutes Section 31-315 based on claims that the settlement approval hearing was not conducted in a reasonable manner, she did not understand the settlement, there was fraud and that she was coerced to settle the case. After a formal hearing on the issue, Judge Truglia denied the motion to open pursuant to Section 31-315. On appeal, the CRB affirmed the denial of the motion to open.

BROWN V. COCA COLA BOTTLING COMPANY, 6456 CRB-1-21-12 (September 23, 2022)

The claimant sustained a compensable left knee injury but he had a documented pre-existing condition. The treating physician in September 2020 issued a report stating that the prior condition was the "symptom generator and the reason he remains out of work." The respondents filed a Form 36 on October 1, 2020 contending that the present condition was due to the pre-existing problem. A subsequent report by the treating doctor in November 2020 indicated that the present disability and need for treatment was "directly caused by his work injury, 6/03/2020." Eventually the claimant was released to work full duty. The Administrative Law Judge found that the Form 36 should not be approved until February 22, 2021 and that the disability was due to the work injury, relying on the November 2020 report of the treating physician. The respondents filed an appeal as well as a motion to correct and motion for articulation, both of which were denied. The respondents contended the Judge's decision was not supported by the evidence. The CRB affirmed the decision and noted that it is within the fact-finder's discretion to accept some but not all of a doctor's opinions. The Board stated: "we note that when a medical witness offers divergent opinions as to an issue, a trier of fact is permitted to choose the opinion that he or she believes to be more reliable."

EASTWOOD V. ICNO PAINTING, INC., 6446 CRB-1-21-10 (October 14, 2022)

The claimant was a painter assigned to work in New Hampshire from Connecticut; he sustained significant injuries while working for the employer in October 2020. The employer provided directions, tools and housing for the employee. The employer denied liability for the injuries based on contention the claimant was an independent contractor and not an employee. The administrative law judge concluded that the claimant was an employee and awarded benefits. In doing so, she found that the respondents refusal to pay for medical treatment was unreasonably delayed and ordered fees and costs for undue delay pursuant to Connecticut General Statutes

Sections 31-288 and 31-300. The respondents appealed the finding for penalties but not the compensability finding. The ALJ did not make any finding as to whether the contest of the employment status of the claimant was unreasonable. The CRB noted that the ALJ did not make findings regarding the “jurisdictional defense nor did she articulate the nature of the alleged undue delay.” The Board found that there was error and remanded the case to the ALJ for further “consideration, articulation, and clarification” re the unreasonable contest and undue delay

DAVERSO V. COATING DESIGN GROUP, 400114726 (Judge Truglia trial decision October 14, 2022)

The claimant sought to set aside a full and final stipulation that had been approved by the Administrative Law Judge. At the formal hearing the ALJ presiding over the motion to set aside the settlement, sua sponte (at the judge’s request), ordered that the parties address the issue of subject matter jurisdiction of the Workers’ Compensation Commission to hear a motion to set aside, or nullify, the approved settlement. The respondents, in response to the order of the Judge, contended that the Judge did not have jurisdiction to hear the claim. The Judge ruled that Connecticut General Statutes Section 31-315 did not provide authority to the ALJ to nullify the settlement. The ALJ concluded that “The Act does not provide the statutory authority or jurisdiction to set aside a fully executed and fully performed settlement contract under the provisions of Sec. 31-315. Such an action properly lies within the jurisdiction of the superior court.” The ALJ dismissed the motion to set aside or nullify for lack of subject matter jurisdiction. The Judge cited the case of *Stickney v. Sunlight Construction, Inc.* 248 Conn. 754, 766 (1999), in support of her finding; in *Stickney* a dispute over coverage between respondents was found to be outside the jurisdiction of the Workers’ Compensation Administrative Law Judge. This case will be appealed to the CRB.
Attorney Richard Aiken of SDAZ defended the claim for the respondents.

CALLAHAN V HEALTHCARE SERVICES GROUP, 6453 CRB-8-21-11 (November 4, 2022)

The claimant sought to reopen a full and final settlement for \$20,000 based on her contention that the stipulation approval hearing was not done in a reasonable manner, she did not understand the stipulation and that she was coerced into accepting the settlement agreement. At hearing on November 14, 2019 Judge Schoolcraft had, on the record, explained the proposed settlement for \$20,000 to the claimant; at the hearing the claimant agreed to settle the matter and settlement agreements were approved. The respondent’s tendered to the claimant a check at the hearing for \$20,000 and she deposited it in her account. On November 20, 2019 the claimant moved to reopen the settlement agreement. The Compensation Review Board on appeal determined that the

stipulation process was appropriate and there was no basis to reopen the settlement agreement. The Board also determined that the trial judge's denial of a Motion to Correct was appropriate. **Attorney Christopher Buccini of SDAZ** defended the case for the respondents.

BERRY V. UP REALTY, L.L.C. ET. AL., 6460 CRB-8-21-12 (November 9, 2022)

The claimant sustained a compensable ankle injury on a Friday while breaking up a cast-iron tub; a piece of iron hit him on the medial side of his ankle. Due to pain the employee stopped work an hour and a half after the incident and was driven home by a fellow employee. The claimant did not seek medical treatment over the weekend, although he developed a fever, nausea, and had abdominal pain. On Monday morning he was found naked in bed, in a fetal position and emaciated. An ambulance was called and the claimant was given CPR en route to the hospital. Initial diagnosis was acute respiratory failure, septic shock, and lung mass. Thereafter, the claimant was diagnosed with acute kidney injury secondary to ischemic tubular necrosis. The claimant's left leg became cold and purple showing mottling. The claimant ultimately underwent a left leg amputation for control of ischemia and systemic toxicity.

The claimant pursued a workers' compensation claim alleging that the compensable left ankle injury caused the left leg amputation. In support of his claim, he submitted the opinion of Dr. Luchini, an orthopedist, that the collapse on Monday was due to dehydration caused by inability to walk over the weekend post the ankle injury. A cardiologist, Dr. Vidhun, testified that the ankle injury caused circulatory issues in the left leg leading to the amputation. This was countered by the respondents with the testimony of a cardiologist, Dr. Samuel Hahn, who indicated that the ankle injury and left leg ischemia which led to the amputation were not related. The Administrative Law Judge did not find persuasive the opinions of Dr. Luchini and Dr. Vidhun and dismissed the claim and also denied a Motion to Correct filed by the claimant.

On appeal the CRB affirmed the dismissal noting that there was sufficient basis in the record for the Judge to determine that the work accident was not a substantial factor in causing the amputation. The Board noted that there was evidence in the record that the claimant had prior vascular issues. The Board stated that it is the claimant's burden to prove the work accident is a substantial factor in causing the injury with competent evidence. The CRB provided a thorough review of the case law pertaining to the substantial factor test and the claimant's burden in that regard.