



STRUNK • DODGE • AIKEN • ZOVAS  
ATTORNEYS AT LAW

## *CONNECTICUT WORKERS' COMP UPDATE*

The law firm of **Strunk Dodge Aiken Zovas (SDAZ)** provides you with our **FALL 2023 WORKERS' COMPENSATION LAW 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](mailto:jdodge@ctworkcomp.com) or 860-785-4503.



### **STRUNK DODGE AIKEN ZOVAS NEWS**

**Strunk Dodge Aiken Zovas** has been named by Best Lawyers as a 2024 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.

**Courtney Stabnick of SDAZ** has been named **2024 “Lawyer of the Year”** by Best Lawyers for litigation-Insurance in the Hartford region.

**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, Philip Markuszka, Courtney Stabnick, Jason Dodge and Richard Stabnick of SDAZ** have been selected by their peers for recognition of their professional excellence in Workers’ Compensation-Employers in the 30<sup>th</sup> edition of *The Best Lawyers in America*.

**Attorney Heather Porto of SDAZ** authored an article for the Compensation Quarterly regarding former Administrative Law Judge Randy Cohen. The Compensation Quarterly is a publication regarding workers’ compensation in Connecticut published by the Connecticut Bar Association. The article was based on a discussion with Judge Cohen and reviewed her legal background, how she became involved in workers’ compensation claims, and her career as an ALJ. Judge Cohen’s advice to those who go to hearings in the workers’ compensation forum is to be prepared for the hearing and know all the facts in your case.

**Attorney Christopher Buccini of SDAZ** has been named the new Vice-Chairman of the Workers’ Compensation Section of the Connecticut Bar Association. In 2024 he will be in line to be the Chairman of the Section. Congratulations to Chris!

**Attorney Buccini** was a moderator at the recent Connecticut Bar Association Seminar “From the Subjective to the Radicular: Pain, the Final Frontier.” This seminar dealt with issues of pain and included presentations by physicians who practice in the field of pain medicine.

**Attorney Richard Aiken, Jason Dodge and Anne Zovas** were named Super Lawyers for 2023 in the field of workers’ compensation law. **Attorneys Christopher D’Angelo, Ariel MacPherson and Philip Markuszka of SDAZ** were named “Rising Stars” in workers’ compensation law.

**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**.

**Attorneys Anne Zovas, Richard Aiken, Lucas Strunk, Jason Dodge and Richard Stabnick of SDAZ** have received an AV rating by Martindale-Hubbell. Martindale-Hubbell states that the AV rating is “The highest peer rating standard. This is given to

attorneys who are ranked at the highest level of professional excellence for their legal expertise, communication skills, and ethical standards by their peers.”

Super Lawyers 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.

<https://www.superlawyers.com/top-lists/connecticut/top-50-2022-connecticut-super-lawyers/8f32d19b3dab923e94b33d24c8fd4cb4/>

**Kids Chance of Connecticut** had a successful Golf event at Glastonbury Hills Country Club on November 6, 2023. **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. 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](http://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 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](mailto:azovas@ctworkcomp.com), [raiken@ctworkcomp.com](mailto:raiken@ctworkcomp.com), [lstrunk@ctworkcomp.com](mailto:lstrunk@ctworkcomp.com), [jdodge@ctworkcomp.com](mailto:jdodge@ctworkcomp.com), [HPorto@ctworkcomp.com](mailto:HPorto@ctworkcomp.com), [cgriffin@ctworkcomp.com](mailto:cgriffin@ctworkcomp.com), [nberdon@ctworkcomp.com](mailto:nberdon@ctworkcomp.com), [cstabnick@ctworkcomp.com](mailto:cstabnick@ctworkcomp.com), [cbuccini@ctworkcomp.com](mailto:cbuccini@ctworkcomp.com), [pmarkuszka@ctworkcomp.com](mailto:pmarkuszka@ctworkcomp.com), [cdangelo@ctworkcomp.com](mailto:cdangelo@ctworkcomp.com), [amacpherson@ctworkcomp.com](mailto:amacpherson@ctworkcomp.com), [rstabnick@ctworkcomp.com](mailto:rstabnick@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:

Lucas D. Strunk, Esq.	860-785-4502	Courtney C. Stabnick, Esq.	860-785-4501
Jason M. Dodge, Esq.	860-785-4503	Christopher Buccini, Esq.	860-785-4500 x4520
Richard L. Aiken, Jr., Esq.	860-785-4506	Philip T. Markuszka, Esq.	860-785-4500 x4510
Anne Kelly Zovas, Esq.	860-785-4505	Christopher J. D’Angelo, Esq.	860-785-4504
Heather K. Porto, Esq.	860-785-4500 x4514	Ariel R. MacPherson, Esq.	860-785-4500 x4528

Colette S. Griffin, Esq.

860-785-4500 x4525

Nancy E. Berdon, Esq.

860-785-4507

Richard T. Stabnick, Esq., Of Counsel 860-785-4500 x4550

## LEGISLATIVE UPDATE

### Public Act 23-35

Codified as §31-294k, this new law expands workers' compensation coverage for PTSI (formerly PTSD) to all employees effective 1/1/24.

As was the case with prior individuals covered in this section of the law, the diagnosis must be confirmed by a board-certified psychiatrist or psychologist who has experience diagnosing and treating post-traumatic stress injury.



## Limited Benefits

Section 31-294k provides a defined and limited benefit to the extent medical treatment and total or partial incapacity benefits cannot exceed 52 weeks from date of diagnosis.

There are no permanent partial disability benefits.

No award shall be made beyond four years from date of the qualifying event.



## Qualifying Events

- ▶ Views a deceased minor;
- ▶ Witnesses the death of a person or an incident involving the death of a person;
- ▶ Witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause;
- ▶ Has physical contact with and treats an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; or
- ▶ Witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in permanent disfigurement of the victim.



## Causation Questions

- ▶ A qualifying event must be a substantial contributing factor in causing the injury.
- ▶ The PTSI injury must not result from disciplinary action, work evaluation, job transfer, lay-off, demotion, promotion, termination, retirement or similar action of the eligible individual.
- ▶ Prior language in §31-294 suggesting that the Qualifying Event and not another event was the primary cause of the disorder was removed in 2021.
- ▶ The diagnosis must meet the criteria as specified in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (DSM-5).



\* \* \* \* \*

## Health Care Providers were covered after 3/10/2020

Section 31-294k was amended in 2021 (PA 21 -107) to include "Health care providers".

Defined: (A) A person employed at a doctors' office, hospital, health care center, clinic, medical school, local health department or agency, nursing facility, retirement facility, nursing home, group home, home health care provider, any facility that performs laboratory or medical testing, pharmacy or any similar institution; or (B) A person employed to provide personal care assistance, as defined in Section 17b -706, in or about a private dwelling, provided such person is regularly employed by the owner or occupier of the dwelling for more than twenty -six hours per week.



## Coverage of Health Care Providers

NOTE: As one can see, the law covers Health care providers in a wide range of health related occupations for those cases after March 10, 2020 in cases in which the provider engaged in activities dedicated to mitigating or responding to the state's public health crisis.



## Qualifying Events for Health Care Providers

Benefits under this section were provided for those providers who had contact with, witnessed or treated a person with COVID19 which resulted in a fatality or loss of vital body function.

The health care provider will qualify for benefits in the event he or she:

1. Witnesses the death of a person due to COVID19 or due to symptoms that were later diagnosed as COVID19;
2. Witnesses an injury to a person who subsequently dies as a result of COVID-19 or due to symptoms that were later diagnosed as COVID19; or
3. Witnesses a traumatic physical injury that results in the loss of a vital body function of a person due to COVID-19 or due to symptoms that were later diagnosed as COVID19.



## Expanded coverage for Telecommunicators

Public Act 23-80 amends Section 31-275(1)(A) by adding a paragraph (iii) effective October 1, 2023. The new law expands so called “portal to portal” coverage to telecommunicators who now join police officers, firefighters, and Department of Corrections employees as exceptions to the usual coming and going rule.

Telecommunicators as defined in Section 2830 of the General Statutes (911 emergency dispatchers) who perform this task for public agencies or private agencies as defined in General Statute Section 2825 (those who use enhanced and next generation telecommunication systems) and who receive or process 911 calls fall within the definition of those covered by the new law.



## A Telecommunicator will be deemed to be in the course of employment as follows:

1. When a telecommunicator is subject to emergency calls while off duty by the terms of such telecommunicator's employment;
2. When responding to a direct order to appear at such telecommunicator's work assignment under circumstances in which nonessential employees are excused from working; or
3. Following two or more mandatory overtime work shifts on consecutive days.





## Course of “employment” defined:

- ▶ In the course of his “employment” is defined as encompassing such individual’s departure from such individual’s place of abode directly to such individual’s duty and then return directly to such individual’s place of abode after duty.
- ▶ The legislative history notes that the intent of the new law is to provide coverage for the employee who is traveling between home and the workplace. History suggests therefore that injuries at the abode would need be analyzed under more traditional workers’ compensation law.



## CONNECTICUT WORKERS’ COMPENSATION COMMISSION NEWS

### NEW WORKERS’ COMPENSATION PORTAL

A new Worker’s Compensation portal has been established at this site:

[https://wccct.govqa.us/WEBAPP/rs/\(S\(ee5fdcqqfjppdvhg3ssjxq1e\)\)/supporthome.aspx](https://wccct.govqa.us/WEBAPP/rs/(S(ee5fdcqqfjppdvhg3ssjxq1e))/supporthome.aspx)

The old Worker’s Compensation website remains in place, however, this new portal will allow a search of managed care plans for a particular date of injury. Also, workers’ compensation coverage searches and requests for workers’ compensation files and freedom of information requests can be performed through this new portal. The prior worker’s compensation history of an individual and information concerning a particular file (forms filed, hearing requests, hearings held, voluntary agreements approved) can be searched through this portal as well. Information regarding self-employers in the system can also be reviewed.

<https://portal.ct.gov/WCC/Home-News/Workers-Compensation-News/2023/Records-and-Information-Request-Service>

## **Memorandum 2023-08**

The Form 42 has been revised. The new Form 42 includes “a check box indicating “Check, if total impairment rating, inclusive of any prior ratings, for body part.” The box should be checked when the rating is for the total impairment inclusive of any previous ratings for the body part. The box should not be checked when the rating is in addition to a previous rating. The revised form can be obtained from our [Online Forms](#) page.”

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2023/Memorandum-No-2023-08>

## **MEMORANDUM 2023-05:**

Memorandum 2023-05 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, 2023 is \$1,575 (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, 2023 is \$1,154 (based on the average weekly earnings of production and related workers in manufacturing in Connecticut).

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2023/Memorandum-No-2023-05>

## **MEMORANDUM 2023-04**

The Official Connecticut Practitioner Fee Schedule was issued by the Connecticut Workers’ Compensation Commission effective July 15, 2023.

## **MEMORANDUM 2023-03**

The Connecticut Workers’ Compensation Commission effective June 10, 2023 has amended subsection F of Section VII of the *Professional Guide for Attorneys, Physicians and Other Health Care Practitioners Guidelines for Cooperation*. The subsection now reads:

## **Exception for Psychiatrists, Psychologists, Neuropsychologist, and Neuropsychiatrists**

*Due to the particular nature of these fields, there are some exceptions to Commission rules, regulations and guidelines granted to providers in these disciplines. Please note the following:*

- 1. Most Commission rules and regulations, including deposition fees and formal hearing testimony fees, **do apply***
- 2. Fees as listed in the Official Connecticut Practitioner Fee Schedule, which encompasses most office visit/treatment fees, **do apply** unless there is a contract indicating otherwise*
- 3. Fees for Commission Medical Exams and Employer/Respondent Exams **DO NOT** apply. The provider may charge a maximum of \$2500 for these types of exams without prior approval. Any fee above \$2500 for a CME must be approved by the ALJ **prior** to the exam taking place. In the case of an RME, the provider may request the higher fee from the respondent. If the provider and respondent cannot agree on a fee, the respondent may choose another provider or request a hearing with an ALJ to determine a reasonable fee.*

### **MEMORANDUM 2023-02:**

RME charges have now been increased to \$850.

### **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.

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

### **MILEAGE RATES:**

On January 1, 2023 the mileage rate increased to 65.5 cents per mile. The rate had been at 62.5 cents per mile since July 1, 2022

### **BURIAL FEES:**

**As of January 1, 2023, the burial fee for** deaths covered under the Workers' Compensation Act is \$13,454.70 based on the overall 2022 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.

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>

### **NEW COMPENSATION REVIEW BOARD PANEL**

The new CRB panel beginning January 1, 2024 will be Administrative law Judges Delaney and Schoolcraft along with Chief Administrative Law Judge Morelli.

### **WORKERS' COMPENSATION TIP**

Before an Administrative Law Judge allows a Workers' Compensation matter to be settled on a full and final basis the Judge and his/her staff require information concerning the claim and how the settlement was negotiated. The Judge will want an updated medical report documenting whether there is any additional need for medical treatment. Also, the Judge will want to know whether there are any outstanding health liens or any conditional payment issues involving Medicare. If the claimant is a potential Medicare recipient, the Judge will review the settlement agreement to make sure that Medicare's interests are considered. If the claimant is receiving Social Security disability benefits the Judge may require that "offset" provisions be placed in the settlement to reduce any potential reduction of Social Security disability benefits because of the Workers' Compensation settlement. Also, the Judge will want to know whether there were any permanent impairment ratings and whether they have been paid partially or in full. Finally, the Judge will want to know how the settlement figure was negotiated between the parties. Settlement documentation must be submitted to the Judge before any case will be assigned for settlement approval; the settlement documentation includes a stipulation and what it means form, a stipulation questionnaire form and the stipulation itself. It is

important for the insurance carrier to provide counsel with this background information in order that settlement of the claim can be accomplished.

## **CASE LAW**

### **GERALD ROWE, EXECUTOR OF THE ESTATE OF PATRICIA ROWE V. BRIDGEPORT HOSPITAL, 6485 CRB-4-22-9 (September 15, 2023)**

The claimant was born on October 2, 1948. She sustained a compensable needle stick at work on October 31, 1996 and developed hepatitis and associated lung injury. She became totally disabled on November 16, 1996 and received TT and cola's until her death on April 17, 2022. At the time of her injury Connecticut General Statutes Section 31-307(e) was in place which provided employers an offset against total disability payments for Social Security retirement benefits that the claimant may be entitled to receive. In this case the claimant never applied for Social Security retirement benefits; notwithstanding this, the respondents filed a Form 36 on December 10, 2019 claiming the offset based on the benefits that the claimant could have received from Social Security. The trial judge concluded that there was no offset since she never received any Social Security benefits; the Compensation Review Board affirmed the denial of an offset concluding that the claimant was not entitled to Social Security retirement benefits if she did not apply for them. Section 31-307(e) did apply to this claim since the rights and obligations of the parties are based on the statutes in effect as of the date of injury. Section 31-307(e) was enacted in 1993 but was repealed in 2006.

### **BARROS V. CITY OF BRISTOL, 6491 CRB-6-22-11 (October 6, 2023)**

The claimant sustained a head injury on February 8, 2019 in the course of her work as a teacher. She came under the care of Dr. Hasbani, a neurologist, who provided medical reports indicating that the claimant was totally disabled. The claimant, however, also worked as a realtor and continued to work in that position notwithstanding Dr. Hasbani's opinion that the claimant was totally disabled. The claimant received total disability benefits from the date of injury until a Form 36 was approved at an informal hearing on November 12, 2019. The claimant continued to contend she

was entitled to medical treatment, total disability benefits and health insurance pursuant to General Statutes Section 31–284b. Eventually the claimant entered into a separation agreement with the employer and received a disability retirement in December 2020. At the formal hearing evidence was presented that the claimant was working as a realtor, took trips to the beach and amusement parks, and went to Portugal during periods of time when she claimed she was totally disabled. The Administrative Law Judge concluded that the claimant was not credible, however, he determined that the claimant was entitled to temporary partial benefits from the date of injury through the date of the separation agreement in December 2020. Additionally, the Judge found that Section 31–284b benefits were not owed after the separation agreement in December 2020. He did order that the claimant continue to receive medical treatment for the accepted body parts. Both parties took an appeal to the CRB, however, the Board affirmed the Trial Judge Finding.

**ROSENSTEIN V. HARTFORD DISTRIBUTORS, 6490 CRB-8-22-11  
(October 20, 2023)**

The Compensation Review Board in this case affirmed a Finding and Dismissal of a claim for temporary total and Connecticut General Statutes Section 31-308a benefits; in doing so, the Board affirmatively cited the recent Appellate Court decision in *Cochran v. Department of Transportation*, 220 Conn. App. 855, appeal pending, S. C. 230146, which denied TT benefits to an individual who voluntarily retired before making a claim for benefits. In *Rosenstein*, the claimant was elderly (born in 1933). The claimant in 2010 was seriously injured when he heroically was attempting to stop a shooter at the company facility. The claimant himself was shot in the leg, abdomen, and left arm. After the incident the claimant did return to work and the employer provided accommodation to him including providing a work assistant, giving him a golf cart to travel in the large facility and keeping his desk near the bathrooms (the claimant at times had to go the bathroom emergently due to abdominal injuries from the shooting). The claimant retired voluntarily in 2018 at age 85, although there was testimony that the claimant's desk was kept open at the employer because they thought he would be coming back to work. Post

retirement there was evidence that the claimant was active taking dance classes, going to ball games and playing golf. After his retirement the claimant sought either TT or Section 31-308a benefits, claiming that he would not have retired but for his injuries. The claimant did produce a report from his gastroenterologist suggesting that he could not work; also, the claimant presented the testimony of a vocational specialist who indicated that the claimant was unemployable. The employer was willing to accommodate the claimant and his restrictions but the claimant did not request accommodation. The ALJ found that the claimant was not willing to return to work and that his claim for benefits was denied. The Judge did not adopt the medical or vocational evidence that suggested the claimant was TT/unemployable. A Motion to Correct was denied as well as a Motion to Open to present the testimony of the claimant's boss, Mr. Hollander. The CRB affirmed the dismissal noting that the issue of TT entitlement was an issue of fact for the ALJ to decide. The Board affirmed the denial of the Motion to Correct and Motion to Open (they interpreted this to be a Motion to Submit additional evidence). In support of their decision the Board cited the *Cochran* decision, noting that the claim for benefits for the retiree in *Cochran* was denied even though there was some evidence in that case that the claimant retired in part due to his work injuries. A petition for certification has been granted in the *Cochran* case to the Connecticut Supreme Court and therefore the Supreme Court will address the issue of total disability benefits post voluntary retirement in the *Cochran* decision.

### **DUSTO V. ROGERS CORPORATION, 222 Conn. App. 71 (2023)**

The plaintiff, the executor of the estate of the decedent, filed a claim for damages against the former employer of the decedent contending that the employer had knowingly exposed the decedent to asbestos and that the employer knew there was substantial certainty that the employee would be injured. The defendant employer filed a Motion for Summary Judgment asserting that the exclusive remedy provisions of General Statutes Section 31-284 applied and that the employee's sole remedy against the employer was workers' compensation benefits. The trial Judge granted the Motion for Summary Judgment, however, on appeal the Appellate Court reversed that decision and concluded that the claim against the employer could

proceed. The Appellate Court determined that there was a genuine issue of material fact whether the employer “subjectively believed that its conduct was substantially certain to result in injury to its employees.” In reaching its decision the Court cited the case of *Lucenti v. Laviere*, 327 Conn. 764 (2018) and its analysis of what a plaintiff must prove in direct action claims against employers. The employer will file a petition for certification to the Connecticut Supreme Court seeking to reverse this decision.

**PATRICIA BUCHANAN, SURVIVING SPOUSE OF PAUL BUCHANON V. TOWN OF EAST HARTFORD/POLICE DEPARTMENT, 6488 CRB-6-22-10 (November 3, 2023)**

The claimant was a police officer with a municipal employer. Throughout his career he was exposed to dangerous and stressful situations. On January 15, 2013 he was at a fire during work that was described as chaotic; the officer had some smoke inhalation as a result of this. The officer had been treating for emotional/mental health issues. On March 12, 2013 he committed suicide while at work. A claim for widow benefits was sought with the date of accident March 12, 2013. The Trial Judge concluded that the decedent did have PTSD and that it was an occupational disease but that it was not secondary to a physical injury. The Judge found that the claimant had major depression per the respondent examiner’s opinion and that the death of the decedent was due to that and prescription medication management issues. The Judge dismissed the claim. On appeal the CRB determined that the Judge’s decision was “clearly erroneous” and misapplied the law to the facts. The Board found that the case was a “mental-physical” claim with the physical injury being the gun shot that led to the death of the decedent. The CRB cited the heart attack case of *Chesler v. Derby*, 96 Conn. App. 207 (2006), cert. denied, 208 Conn. 909 (2006) in support of its decision and the case of *Biasseti v. Stamford*, 250 Conn. 65 (1999) (claimant’s psychiatric injury an occupational disease but not compensable since not due to physical injury). The Board reversed the dismissal. In doing so, the CRB did not explain why the claim at the Supreme Court in *Biasseti* was dismissed but this claim was somehow found compensable. The *Biasseti* Court in dismissing that claim stated:



Section 31-275 (16) (B) (ii) includes within the definition of "personal injury" an emotional impairment that *arises from* or is caused by a physical injury or occupational disease. It does not, however, extend coverage to an emotional impairment *which itself is* an occupational disease. To conclude otherwise would be to ignore the causation requirement encompassed within the term "arises."

We expect this decision will be appealed to the Appellate Court.