

WORKERS' COMPENSATION IN CONNECTICUT – THE YEAR IN REVIEW 2024-2025

PRESENTED BY

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CRB Decisions

Issued September 1, 2024-August 31, 2025.

Bocchino v. Joseph's Auto Body (J.F.P. Enterprises, L.L.C.)

Case No. 6532 CRB-8-24-2 : Claim No. 800212970 : January 24, 2025

The Claimant, an autobody technician, alleged that repetitive overhead work caused a right shoulder injury, later diagnosed as a rotator cuff tear. The Administrative Law Judge (“ALJ”) found the injury compensable, approved surgery, and awarded a five percent (5%) permanent partial disability rating to the upper extremity under § 31-308(b). The ALJ, however, denied claims for temporary total and temporary partial disability benefits, finding that the Claimant did not produce any evidence of total disability prior to his heart attack, which was found to be a superseding event that caused the Claimant’s disability, and further finding that the Claimant retained some work capacity following his rotator cuff injury, but that he had not sought work.

On appeal, the Claimant argued that the ALJ improperly denied temporary disability benefits, based in part on having been awarded social security disability benefits; erred in certain evidentiary rulings; and should have recused himself. The Compensation Review Board (“CRB”) affirmed the ALJ’s ruling. It held that an ALJ, as the trier of fact, has broad discretion to weigh medical opinions, and appellate review is limited to whether the trial court could have reasonably concluded as it did. The Court has long held that an award of social security disability benefits is not dispositive of whether one is entitled to a disability award under the Workers’ Compensation Act. Additionally, the record contained sufficient evidence supportive of the ALJ’s decision. As such, the denial of temporary disability benefits stood. The CRB also found no abuse of discretion in the ALJ’s evidentiary rulings, and it rejected the recusal claim, noting that adverse rulings alone do not establish bias.

Callahan v. iCare Health Management d/b/a Silver Spring Care Center

*Case No. 6525 CRB-8-24-2 : Claim Nos. 800210040; 800210038; 800207534;
800207382; 800207383; 800207384; 800207535; & 800207742 : November
22, 2024*

The Claimant, a Certified Nursing Assistant, sustained an injury to her lumbar spine and left hip on June 19, 2017. That claim was settled on November 19, 2019, by way of full and final Stipulation. The Claimant later filed new claims, contending that she suffered sequelae of the original injury and that her left hip osteoarthritis constituted an occupational disease, thereby allowing for a longer statute of limitations under § 31-294c. The Administrative Law Judge found the subsequent claims were filed more than one year after the alleged dates of injury, and that medical reports did not establish her osteoarthritis as distinctively associated with, or peculiar to, her role as a CNA with the Respondent employer. None of the medical opinions tied her degenerative hip condition to hazards particular to her occupation; instead, they described a condition commonly found in the general population and not unique to work as a CNA. Because the injury was not shown to be occupational in nature, the ALJ determined it was more properly

characterized as a repetitive trauma injury. On that basis, the ALJ dismissed the Claimant's as jurisdictionally untimely as they were not filed within the one-year jurisdictional requirements of § 31-294c.

On appeal, the Claimant argued that her condition should have been deemed an occupational disease and that the ALJ erred in not concluding as such. The Compensation Review Board rejected this argument, holding that the ALJ reasonably determined that the evidence did not establish occupational disease and properly applied the one-year statute of limitations.

The Respondents cross-appealed, arguing that it was error for the ALJ to have addressed the merits as to whether the Claimant sustained a compensable injury as the Formal Hearing was limited to whether the Commission had jurisdiction over the claim, and that question was resolved in a manner adverse to the Claimant. The CRB agreed, holding that it was error to address in the finding anything the parties were not directed to litigate.

Dodge v. State of Connecticut/Department of Motor Vehicles
Case No. 6538 CRB-8-24-4 : Claim Nos. 601064722 & 601067132 : May 2,
2025

The Claimant, the surviving spouse of the decedent, filed Forms 30D against the Town of Manchester and the State of Connecticut alleging that her late-husband's fatal mesothelioma was the result of asbestos exposure during his employment. In addition to the workers' compensation claims, the decedent and the Claimant also filed claims against several asbestos bankruptcy trusts as well as a products liability suit against various manufacturers. Evidence was introduced in the workers' compensation proceedings showing how portions of those third-party settlements were attributed to occupational exposure and how others were attributed to non-occupational sources. The Claimant argued that the decedent was entitled to temporary total incapacity benefits from the date of his diagnosis until the date of his death, and that she was entitled to survivor's benefits as the decedent's presumptive dependent. She further contended that any offset to those benefits should be limited only to the portion of third-party proceeds that had been expressly tied to occupational exposure. The Administrative Law Judge found that the decedent's mesothelioma was, in fact, the product of asbestos exposure, and that his employment with both the Town of Manchester and the State of Connecticut constituted substantial contributing factors to the development of the mesothelioma. The ALJ noted that had he been eligible for temporary total disability benefits, he would have been entitled to approximately 14.28 weeks of benefits. However, applying Cochran v. Dept. of Transportation, 220 Conn. App. 855 (2023), *rev'd*, 350 Conn. 840 (2024), the ALJ held that because the decedent had been fully retired at the time he became incapacitated, he was not eligible for temporary total benefits. With respect to the moratorium, the ALJ applied a moratorium against *all* third-party recoveries, not just those tied to occupational exposure.

On appeal, the Claimant raised two (2) main claims of error. First, she argued that the ALJ improperly relied on Cochran, which had since been reversed by the Supreme Court. Second, she maintained that the ALJ erred in including the third-party settlement funds associated with the decedent's non-occupational exposures to asbestos in the Respondents' moratorium. The Compensation Review Board rejected both arguments. The CRB noted that Cochran was the

controlling law at the time of the ALJ's decision, and it was properly applied. In doing so, the CRB specifically rejected the Claimant's argument that Cochran did not apply to occupational disease claims.

With respect to the moratorium, the CRB emphasized that the statutory language requires that "any damages" recovered in third-party actions be credited against the employer's liability, regardless of whether portions of the settlement were labeled as occupational or non-occupational, rejecting the argument that in doing so the Claimant would obtain a double recovery and recognizing that on the contrary, requiring a respondent to pay the full measure of damages under the Workers' Compensation Act while the Claimant simultaneously recovers money from someone else for the very same damages is the very definition of a double recovery.

Finding sufficient evidence and no legal error, the CRB affirmed the ALJ's Finding and Award. **This matter is currently on appeal to the Appellate Court.**

Fioravanti v. NCR Corporation

Case No. 6545 CRB-5-24-6 : Claim No. 100153667 : May 27, 2025

In *Fioravanti v. NCR Corporation*, the Claimant, a longtime NCR employee, originally sustained a compensable left knee injury on February 7, 2005, for which the Respondents paid a 7.5% permanent partial disability award with a maximum medical improvement date of April 9, 2013. He underwent an authorized total knee replacement on March 19, 2019, performed by his treating physician, Dr. John Grady-Benson. A post-operative examination on October 30, 2019, revealed lingering pain and irritation, and Dr. Grady-Benson opined that further exercises were needed to effectuate a full recovery, which would take one (1) year to eighteen (18) months from the date of the procedure. A follow-up March 2020 appointment was cancelled due to COVID-19; instead, the Claimant completed an online survey regarding the surgery and recovery, in which he noted that he was still having mild pain and stiffness. Upon review of the Claimant's survey, Dr. Grady-Benson did not opine that the Claimant had reached maximum medical improvement, nor did he assign a permanent impairment rating. The Claimant died unexpectedly on October 20, 2020. In February 2021, Dr. Grady-Benson completed a physician's permanent evaluation Form 42, in which he opined that the Claimant had a permanent impairment rating of forty percent (40%), but did not provide a date of maximum medical improvement. Dr. Grady-Benson later confirmed during a deposition that the rating was speculative as he was limited to the records available due to the lack of a physical examination prior to the Claimant's death. The Administrative Law Judge ultimately denied the claim for unpaid permanent partial disability benefits as the Claimant did not meet his burden of proof that maximum medical improvement had been established prior to his death.

On appeal, the Claimant's executrix argued that the posthumous Form 42 should be accepted, particularly due to the COVID-19-related barriers to in-person assessment. The Respondents relied on established precedent, including McCurdy v. State, 227 Conn. 261 (1993); Churchville v. Bruce R. Daly Mechanical Contractor, 299 Conn. 185 (2010); Brennan v. Waterbury, 331 Conn. 672 (2019); and Esposito v. Stamford, 350 Conn. 209 (2024), requiring that maximum medical improvement be established during a Claimant's lifetime. The Compensation Review Board affirmed the ALJ's decision. In doing so, it emphasized that a permanent partial disability award cannot vest with only a posthumous, speculative impairment rating that lacks a determination of maximum medical improvement. The CRB reaffirmed that even amid

extraordinary circumstances like the COVID-19 pandemic, the statutory requirement remains: maximum medical improvement must be established prior to death.

Massena v. City of Stamford

Case No. 6534 CRB-7-24-3 : Claim Nos. 700148677 & 700184036 : February 21, 2025

In *Massena v. City of Stamford*, the Claimant, a former firefighter, sought benefits under § 7-433c for hypertension and heart disease. As a condition of employment, he had undergone a pre-employment physical that noted elevated blood pressure. When he later filed his claim, the Respondents filed a Form 43 denying liability, in part, on the ground that the Claimant did not sustain hypertension “per” § 31-275 or 7-433c. The Claimant filed a Motion to Preclude the Respondents from pursuing a defense based on the allegation that the Claimant’s pre-employment physical had revealed hypertension on the ground that said defense was not specifically articulated in any of the Respondents’ disclaimers. The Claimant also filed a Motion to Preclude testimony of the Claimant’s primary care physician regarding the information contained in the Claimant’s pre-employment physical. The Administrative Law Judge denied both motions, concluding that the disclaimers gave adequate notice by specifically alleging the Claimant did not sustain hypertension “per” § 7-433c.

On appeal, the Compensation Review Board explained that § 31-294c(b) requires that a disclaimer state the specific grounds on which the right to compensation is contested. The purpose of this requirement, as emphasized in *Menzies v. Fisher*, 165 Conn. 338 (1973), is to inform the Claimant of the deficiencies of his claim after the Respondents have had an opportunity to investigate, so the Claimant is not misled or surprised, as the Claimant in the instant case claimed. The Compensation Review Board concluded that the ALJ could reasonably determine that the disclaimers here satisfied that standard. By specifically denying that the Claimant sustained hypertension “per” §7-433c, the disclaimer directly tied the denial to the statutory framework governing heart and hypertension claims. Citing *Tovish v. Gerber Electronics*, 19 Conn. App. 273, *cert. denied*, 212 Conn. 814 (1989), the CRB reasoned that a reference to § 7-433c was sufficient to place the Claimant on notice that he would need to establish all statutory elements of such a claim, including a pre-employment physical free of evidence of hypertension or heart disease. The CRB also upheld the ALJ’s decision to permit questioning of the Claimant’s treating physician, noting that the trier is ultimately the “sole arbiter of the weight of the evidence and the credibility of witnesses in workers’ compensation cases...” and that it was well within the ALJ’s discretion to deny the Claimant’s Motion.

Morgan v. Sulzer Pumps Solutions, Inc.
Case No. 6531 CRB-1-24-2 : Claim No. 100228773 : January 22, 2025

In *Morgan v. Sulzer Pumps Solutions, Inc.*, the Claimant, a field service technician suffered a compensable right shoulder injury on February 14, 2022, when he slipped and fell in an airport parking garage while returning to his vehicle after a canceled work trip. The Administrative Law Judge concluded in his December 21, 2023, Finding and Award that the Claimant sustained an injury “arising out of or in the course of his employment,” and ordered the Respondents to accept compensability for the injury. On January 3, 2024, the Claimant filed a Motion to Correct, which was denied in its entirety on February 8, 2024, and the Respondents subsequently filed a Petition for Review on February 27, 2024, alleging, in part, that the Administrative Law Judge did not properly apply the law. The Claimant moved to dismiss the appeal as untimely.

On appeal, the Compensation Review Board first considered the plain language of § 31-301(a), which provides a twenty-day window to file an appeal and further states that, “if a party files a motion subsequent to the finding and award, order, or decision, the twenty-day period for filing an appeal of an award or an order by the commissioner shall commence on the date of the decision on such motion.” The Compensation Review Board found the statute ambiguous as to whether the extension applies only to the party who filed the motion or to any party. Applying § 1-2z, the CRB concluded that the ambiguity permitted it to examine extratextual evidence of legislative intent. The CRB ultimately concluded that the extension referenced in § 31-301(a) was intended only for the party who filed the motion. In applying the principle articulated in Stec v. Raymark Industrices, Inc., 299 Conn. 346 (2010), and Dechio v. Raymark Industries, Inc., 299 Conn. 376 (2010), the CRB reiterated that the twenty (20)-day appeal period begins to run when an appellant’s grievement is determined by way of a finding, order, or decision. Because the Respondents here were aggrieved by the ALJ’s December 21, 2023, Finding and Award itself—and could have filed an appeal at that time—and not the Claimant’s January 3, 2024, Motion to Correct, the 20-day window to file an appeal had tolled, and the Respondents’ February 27, 2024, Petition for Review was dismissed accordingly.

Quinn v. Pierce Builders, Inc. d/b/a HPJ Construction Company
Case No. 6539 CRB-1-24-4 : Claim No. 601096175 : April 25, 2025

In *Quinn v. Pierce Builders, Inc.*, the Claimant, a detailer, alleged he sustained a foot injury on August 4, 2020, while in the employe of the Respondent. He filed a Form 30C on June 17, 2021, and the Respondents filed a timely disclaimer which contested both causation of the injury and the existence of an Employer-Employee relationship. The Administrative Law Judge ultimately found that the Claimant was, in fact, an employee of the Respondent. The ALJ also found the injury compensable and awarded benefits to the Claimant.

The Respondents filed a timely Motion to Correct seeking to recast the Claimant’s status and reconsider the compensability finding, which was denied in its entirety. The Respondents appealed, challenging both the denial of their Motion to Correct and the ALJ’s decision to admit

into evidence an audio recording of the Claimant's purported supervisor, Mr. Hal Pierce, without his knowledge or consent. On review, the Compensation Review Board concluded that the Administrative Law Judge had not properly applied the test set forth in Hanson v. Transportation General, Inc., 245 Conn. 613 (1998), which requires the trier of fact to consider the totality of the evidence and weigh the full range of relevant factors when distinguishing between employees and independent contractors. In Maskowsky v. Fed Ex Ground, 5200 CRB-3-07-2 (July 28, 2008), the CRB emphasized that a thorough weighing of all the factors was necessary to support such a decision. Here, although there was extensive documentary evidence supporting the Respondents' position, the ALJ's findings largely omitted reference to said evidence and it focused almost exclusively on the Claimant's evidence. The ALJ did not explain why the Respondents' evidence was not persuasive, or if it was even considered at all. The CRB determined that this omission was error, because without an analysis of these potentially relevant factors, it could not conclude that the totality of evidence standard enunciated in Hanson was properly applied.

The CRB also found error in the ALJ's decision to admit the recording of Mr. Pierce into evidence. The CRB stressed that C.G.S. §§ 52-570d and 52-184a state that the recording of a phone conversation without both parties' consent is illegal and bars use of such evidence in court. While the CRB has long recognized that the rules of evidence are somewhat relaxed in the workers' compensation arena, it emphasized that this flexibility does not extend to evidence obtained in violation of other statutes. Accordingly, the ALJ's decision to admit this recording into evidence was in error. This matter was ultimately remanded for a de novo hearing with instruction to strike the recording from the record.

Stebbins v. Walsh Construction Company

Case No. 6421 CRB-8-21-4 : Claim No. 400099674 : August 1, 2025

In *Stebbins v. Walsh Construction Company*, the Claimant, the surviving spouse of the decedent, sought benefits following her late-husband's May 21, 2015 left shoulder injury sustained while employed by Walsh Construction Company. Prior to his employment there, the decedent has sustained a number of injuries, including injuries to his left shoulder in 1997 and 1998, while working for Mather Corporation. His treating orthopedist at the time ultimately assigned a twenty percent (20%) permanent partial disability rating to his "left shoulder." In 2009, the decedent settled multiple workers' compensation claims with Mather Corporation, including the aforementioned shoulder claims. The Stipulation referenced a twenty-five percent (25%) permanent partial disability rating to the left shoulder, a 20% rating to the right shoulder, and a five percent (5%) rating to the left ankle. The Stipulation stated that the Respondents were entitled to deduct from the settlement any permanent partial disability payments made after the date of the Stipulation; however, the Stipulation did not specify the body part(s) for which such benefits would have been paid. When the decedent later injured his left shoulder in May 2015, he was ultimately rated with a total impairment rating of fourteen percent (14%) to the left *upper extremity*. The rating physician noted that in the past, physicians sometimes rated the shoulder separately. He did not, however, opine as to how the prior rating would convert to an impairment of the arm.

At the Formal Hearing, the Administrative Law Judge concluded that the decedent sustained a compensable injury in 2015, which aggravated his pre-existing arthritis. The ALJ

further found that the permanency benefits associated with the prior 20% shoulder rating had been payable at the time of the 2009 Stipulation, but because the Stipulation referenced the shoulder and not the arm, the record did not establish whether those earlier benefits encompassed the arm as defined in § 31-308(b). As the ALJ pointed out, permanency benefits are limited to the schedule of body parts set out in the statute, and case law is clear that “shoulder” and “arm” are not interchangeable. As it was impossible to determine whether the earlier rating to the decedent’s shoulder was directly applicable to the left arm or whether a lower rating would have been applied, and the Respondents failed to establish the extent to which some portion of the prior permanency award may have been paid or payable for the left arm, the ALJ concluded that the decedent satisfied his burden of establishing an entitlement to compensation for the full 14% permanent partial disability of his left arm.

On appeal, the Respondents argued that the permanency benefits for the prior shoulder injuries had already been paid or were payable, and that the new award was barred by § 31-349. Relying on Ouellette v. New England Masonry Company, 5424 CRB-7-09-2 (January 14, 2010), the Compensation Review Board agreed that the earlier 20% shoulder rating was payable or paid; however, it noted that the issue required a determination regarding the specific body part for which the decedent received the disability rating and associated permanency benefits. The CRB also relied on Stanford v. Owens Brockway, 262 Conn. 526 (2003), in which the Supreme Court observed that an Administrative Law Judge is not free to substitute his own opinion that a rating to the shoulder, an unscheduled body part, is equivalent to a rating to the arm or upper extremity, a scheduled body part, absent medical evidence to support such a conclusion. Because the earlier rating could not be converted into an arm rating within reasonable medical probability, the CRB found no basis to disturb the ALJ’s conclusion. The CRB rejected the Respondents’ claim that the ALJ improperly distinguished between “arm” and “shoulder,” noting that the statute itself restricts compensation to scheduled body parts. The dismissal was therefore affirmed.

West v. City of Hartford

Case No. 6551 CRB-6-24-8 : Claim No. 100219052 : August 8, 2025

The Claimant, a Hartford police officer, appealed the dismissal of his claim for benefits stemming from a May 3, 2019 altercation outside his home. At the time, the Claimant had already been out of work due to anxiety, depression, headaches, and sleep problems that he attributed to a hostile work environment. During the incident, which involved the Claimant’s sister and another woman, the Claimant attempted to intervene when another individual struck him in the head with a baseball bat. The Claimant was initially treated for a forehead laceration, neck pain, and post-concussion symptoms; however, the Administrative Law Judge did not find that the record supported a compensable injury. The Claimant’s treating physician testified that the incident aggravated his pre-existing psychiatric issues but maintained that his disability stemmed from those long-standing conditions, for which the Claimant was already being treated prior to the alleged May 2019 incident, rather than any brain injury. Additionally, a neurologist found the Claimant to be neurologically intact despite his symptoms, and Nicole Barcelos, Psy.D., conducted a neuropsychological evaluation of the Claimant and opined that his symptoms were the result of his underlying psychiatric condition. The ALJ also credited testimony and video evidence revealing discrepancies in the Claimant’s account of the incident.

On appeal, the Claimant argued that he was acting in his official capacity as a police officer under C.G.S. § 54-1f(b). He also contended that police officers should enjoy a presumption of compensability. The Compensation Review Board rejected both arguments. Relying on State v. Ramirez, 61 Conn. App. 865, 871, *cert denied*, 265 Conn. 903 (2001), the CRB emphasized the test is “whether the [police officer] is acting within that compass or is engaging in a personal frolic of his own,” and further noting that whether an officer is engaging in an official capacity is a factual question for the factfinder. Here, the Board concluded that the ALJ acted within her authority in finding that the Claimant was acting as a private citizen, not in his capacity as a police officer.

As for the presumption argument, the CRB explained that no such presumption exists under current law. In fact, the Supreme Court’s decision in Bucharme v. Putnam, 161 Conn. 135 (1971) struck down the original Heart and Hypertension Act on constitutional grounds, holding that a presumption of compensability amounted to an exclusive public emolument or privilege and results in a denial of equal protection of the law.

Finally, the ALJ concluded that the May 2019 incident did not leave the Claimant temporarily totally disabled or suffering any neuropsychological impairment. The Claimant challenged these findings; however, the CRB held that these challenges went to the ALJ’s discretion as factfinder. Because the record contained sufficient evidence to support the ALJ’s findings, the decision was affirmed.

Zito-Hannan v. Electric Boat Corporation

Case No. 6537 CRB-2-24-3 : Claim Nos. 200205999 & 200206200 : July 19, 2024

The decedent, a long-time employee of Electric Boat Corporation, died suddenly from complications of heart disease. His widow sought survivor’s benefits under §31-306, alleging that work-related stress substantially contributed to his death. At a Formal Hearing on the issues of compensability and survivor’s benefits, the Administrative Law Judge reviewed the medical evidence, including records from the decedent’s treating cardiologist and primary care physician. Both doctors documented the decedent’s longstanding cardiac issues, but notably, neither reported that he was experiencing stress attributable to his employment or advised him to stay out of work. The ALJ ultimately dismissed the claim, concluding that the decedent did not experience work-induced stress that was a substantial contributing factor to his heart disease and death.

On appeal, the Claimant argued that the ALJ drew unreasonable inferences from the record. The Compensation Review Board rejected this argument, emphasizing that unless causation under the facts is a matter of common knowledge, the burden rests with the Claimant to prove that employment was a substantial contributing factor to the injury or death. Here, the medical experts could not quantify the effects of any alleged work-related stress. Without such evidence, it was impossible to establish whether stress was a substantial factor. Instead, the record showed that the decedent’s heart disease progressed over time, and would have resulted in death regardless of his employment. Because there was sufficient evidence to support the ALJ’s findings, and being weighing conflicting testimony lies well within the trier’s discretion, the CRB found no error.

The Claimant also raised an “eggshell plaintiff” argument, asserting that the decedent’s pre-existing condition should not preclude compensability; however, the CRB emphasized that this argument required proof of the statutory condition precedent. That is, that the decedent sustained an “otherwise compensable injury,” which the CRB concluded he did not. As the Claimant has not met this threshold requirement, the eggshell plaintiff doctrine did not apply, and the CRB affirmed the ALJ’s dismissal.

Steven Schmidt v. City of Norwich

Case No. 6554 CRB-8-24-9 : Claim No. 200214042 : September 5, 2025

In *Steven Schmidt v. City of Norwich*, the Claimant, a police lieutenant for the City of Norwich Police Department sought benefits after injuring his right knee on July 20, 2023, while playing basketball at Mohegan Sun. The game was part of a community policing event organized by Sound Community Services and the State of Connecticut Department of Mental Health and Addiction Services. The Claimant participated in this event with eight (8) other officers from his department, during which they wore department insignia, and believed that he was representing the department by participating in the event.

The Administrative Law Judge found that although participation in the game was voluntary, the event’s purpose extended beyond recreation. Relying on testimony from both the Claimant and the police chief, the Administrative Law Judge determined that the event advanced legitimate municipal interests, including fostering relationships with mental health professionals, promoting cooperation between agencies, and strengthening ties within the community. On that basis, the Administrative Law Judge concluded that the injury was compensable and ordered the Respondent to accept the claim and pay all benefits due to the Claimant pursuant to the Workers’ Compensation Act.

The City appealed, arguing that the Administrative Law Judge erred by treating the event as compensable when § 31-275(16)(B)(i) expressly excludes injuries sustained during voluntary recreational activities. The City also contended that the Administrative Law Judge improperly applied the “benefit to the employer” analysis to an injury which occurred while the Claimant was engaged in a recreational activity. The Compensation Review Board disagreed and affirmed the Administrative Law Judge’s decision. The Compensation Review Board reasoned that the statutory inquiry under § 31-275(16)(B)(i) is two-fold—it requires consideration of whether the Claimant’s participation was voluntary and, if so, whether the major purpose of the activity was social or recreational. Although it was uncontroverted that participation in the basketball game at Mohegan Sun was voluntary, the record supported the conclusion that the primary *purpose* of the event was community engagement and public safety, not recreation. The Compensation Review Board further explained that evidence of employer benefit remains relevant to assessing an activity’s major purpose.

Accordingly, the Compensation Review Board affirmed the Administrative Law Judge’s Finding and Award.

Connecticut Appellate Court Decisions

Issued September 1, 2024-August 31, 2025

Patricia Buchanan v. Town of East Hartford (AC 47085)

Argued January 8—officially released July 15, 2025

In *Buchanan v. Town of East Hartford*, the Claimant, the widow of an East Hartford police officer, sought survivorship benefits under § 31-306 after her husband took his own life in March 2013, using his service revolver during office hours. The decedent had served on the force since 1989 and, over the course of his career, responded to multiple traumatic incidents. In January 2013, he fought a significant fire, during which he suffered smoke inhalation and was hospitalized. Afterward, his mental health deteriorated. He carried a pre-existing diagnosis of panic disorder and major depressive disorder, though he was never formally diagnosed with post-traumatic stress disorder (“PTSD”). He received psychiatric care, including medication adjustments and administrative reassignment.

At trial, the Administrative Law Judge heard conflicting expert testimony. The Claimant’s two experts opined that the decedent developed PTSD as a result of his career as a police officer, that the January 2013 fire further aggravated this condition, and that the PTSD directly caused his suicide. The Respondent countered with a forensic psychiatrist who testified that the decedent did not meet the criteria for PTSD; instead, in her view, he suffered from longstanding major depressive disorder and anxiety unrelated to his police work, and his death was the result of depressive episodes compounded by sleep disturbance and medication management issues, which happened to coincide with the January 2013 fire. The Administrative Law Judge ultimately credited the Respondent’s expert, found that the suicide did not arise out of and in the course of employment, and dismissed the claim.

On appeal, the Claimant argued that the Administrative Law Judge erred by relying on the Respondent’s expert and by drawing unreasonable inferences and reached conclusions contrary to the law. The Compensation Review Board agreed and reversed the Administrative Law Judge’s dismissal. In doing so, it reasoned that the Administrative Law Judge’s conclusions contained inherent contradictions and misapplied the law to the underlying facts. Specifically, the Compensation Review Board found that the Administrative Law Judge had contradicted his own findings by diagnosing PTSD but failing to consider its role in the decedent’s death. The Compensation Review Board determined that once it was established that the decedent sustained a physical injury that stemmed from a self-inflicted gunshot wound at work that arose out of and was in the course of his employment, and that his employment was a significant contributing factor to his physical injury, it was unreasonable to conclude that the claim was not compensable.

In reaching its decision, the Appellate Court emphasized that the question of proximate causation belongs to the trier of fact because causation is a factual issue, and it becomes a conclusion of law only when the mind of a fair and reasonable person could reach only one conclusion. If there is room for reasonable disagreement, the question is one to be determined by the trier of fact. Here, the Court concluded the Compensation Review Board improperly substituted its own judgment on causation for that of the Administrative Law Judge, who was the sole factfinder and had made credibility determinations that were supported by the record, further

noting that based on the record, the Administrative Law Judge reasonably could have determined that the decedent's death was caused by his underlying major depressive disorder, rather than his work-related PTSD. The Court held that where the Administrative Law Judge had thoroughly summarized conflicting expert testimony, assessed credibility, and his findings were not clearly erroneous, the Compensation Review Board had no authority to override those factual findings. The Court also declined to affirm the Compensation Review Board's decision on the Claimant's alternative theory that a physical injury from a fire aggravated the decedent's mental health, leading to suicide, because the Administrative Law Judge had specifically credited expert opinion rejecting that theory.

The Appellate Court reversed the decision of the Compensation Review Board and remanded the case with direction to affirm the Administrative Law Judge's dismissal.

City of Waterbury v. Janet Brennan Et Al. (AC 46178)
Argued February 5—officially released September 24, 2024

In *City of Waterbury v. Janet Brennan Et Al.*, the City of Waterbury sought a declaratory judgment that no further workers' compensation payments were due to the estate of its former fire chief, Thomas Brennan, because any benefits that may be due under General Statutes § 7-433c (heart and hypertension) would be offset by his pension under the 1967 Waterbury city charter. The trial court granted summary judgment for the City of Waterbury, concluding that the decedent's employment contract entitled him only to pension benefits under the municipal administrators association, rather than the collective bargaining agreement between the decedent and the firefighters union.

On appeal, the Appellate Court affirmed the judgement of the trial court. It explained that the decedent's employment contract plainly and unambiguously provided that the decedent may be eligible for the pension currently available to members of the Waterbury Municipal Administrators Association, and that this contract embodied the whole agreement between the city and the decedent and may only be changed by written agreement of those parties. In other words, the decedent's employment contract clearly and unambiguously tied him to the administrators' pension system, not the firefighters' plan. The estate's suggestion that the decedent was also entitled to firefighter pension benefits found no support in the language of the contract or the charter.

Relying on Fennell v. Hartford, 238 Conn. 809, 813, 681 A.2d 934 (1996), the Appellate Court emphasized that the Compensation Review Board's decision in granting the decedent a pension pursuant to the administrative agreement comports with the principle that municipal agencies cannot bind the municipality by contract in the absence of express authorization in the municipal charter, describing a city's charter as the "fountainhead of municipal powers." As such, the Court noted that municipal boards cannot confer rights, such as modifying pension benefits for a particular individual, beyond what the charter expressly authorizes.

The judgment for the City of Waterbury was therefore affirmed.

Janet Brennan, Executrix (Estate of Thomas Brennan) v. City of Waterbury
(AC 45467)

Argued February 5—officially released September 24, 2024

In *Janet Brennan, Executrix (Estate of Thomas Brennan) v. City of Waterbury*, the City of Waterbury appealed from the Compensation Review Board's decision affirming in part the Workers' Compensation Commissioner's findings in favor of Janet Brennan, the executrix of the estate of Thomas Brennan. The City of Waterbury claimed that the Compensation Review Board improperly affirmed the Administrative Law Judge's conclusions that the Plaintiff's entitlement to heart and hypertension benefits pursuant to General Statutes § 7-433c matured during the lifetime of the decedent, that the Plaintiff is entitled to statutory interest on said benefits, and that the city unduly delayed payment on, and unreasonably contested, the decedent's claim for § 7-433c benefits. However, the Appellate Court held that the appeal was moot. The Court explained that in the companion case (*City of Waterbury v. Janet Brennan Et Al.*), the trial court had granted summary judgment for the city, declaring that the charter's pension offset provisions completely eliminated any further obligations under § 7-433c. In light of that decision, there was no practical relief the Appellate Court could grant in the present appeal. Because an actual controversy must persist throughout the appeal, and because the claims at issue had effectively been extinguished by the offset ruling in the companion case, the Court concluded that it lacked subject matter jurisdiction, and the appeal was therefore dismissed.

Connecticut Supreme Court Decisions

Issued September 1, 2024-August 31, 2025

Beulah Gardner v. Department of Mental Health and Addiction Services Et Al. (SC 20994)

Argued December 2, 2024—officially released March 18, 2025

The Claimant, a forensic treatment specialist, injured her left wrist while restraining a patient and later underwent multiple surgeries before reaching maximum medical improvement in March 2020, at which time she was assigned an eight percent (8%) permanent partial disability rating to her left wrist. The Respondents filed a Form 36 to convert the Claimant’s temporary partial incapacity benefits to permanent partial disability benefits, which was ultimately approved by the Administrative Law Judge. The Compensation Review Board and Appellate Court affirmed the Administrative Law Judge’s decision, concluding that once maximum medical improvement is reached, ongoing temporary partial incapacity benefits under § 31-308(a) are no longer available under § 31-308(b). The Claimant appealed, and the Supreme Court granted the Claimant’s petition for certification to resolve the limited question of whether an Administrative Law Judge has the discretion to award ongoing temporary partial incapacity benefits under § 31-308(a) after a Claimant reaches maximum medical improvement and thereby becomes eligible to receive permanent partial disability benefits under § 31-308(b).

The Supreme Court framed the matter as a question of statutory interpretation and began by considering § 31-308(b) in the context of prior cases interpreting the statute. The Court observed that temporary partial disability benefits continue as long as the Claimant suffers an impairment of earning capacity, subject to the statutory maximum of five hundred twenty (520) weeks, while permanent partial disability benefits compensate for the lasting loss of function in a scheduled body part, and a Claimant’s entitlement to such benefits vests once maximum medical improvement is reached. Importantly, however, the Court points out that entitlement does not mean payment must begin immediately; rather, it simply means that an employer has the obligation to pay §31-308 permanency benefits sometime in the future. In other words, the Administrative Law Judge retains discretion in deciding whether to continue temporary partial disability benefits or to convert to permanency.

The Court ultimately concluded that the language of § 31-308(b) is clear and unambiguous, and provides that the Administrative Law Judge “may” award specific indemnity benefits “in lieu of” other compensation, which both prohibits concurrent awards and preserves discretion in terms of timing. By contrast, forcing automatic conversion at maximum medical improvement would create the very disproportionality the statute seeks to avoid—that is, situations in which the fixed schedule of benefits bears little relation to the actual effect of the injury on the worker’s earning capacity. By construing the statute according to its plain meaning and remedial purpose, the Court rejected reliance on other legislative history to narrow the Administrative Law Judge’s discretion, reversed the Appellate Court decision, and remanded for further proceedings consistent with this interpretation.

Stephen T. Cochran v. Department of Transportation (SC 20940)

Argued September 23—officially released December 24, 2024

AND

Louis Martinoli v. Stamford Police Department Et Al. (SC 20932)

Argued September 23—officially released December 24, 2024

In *Stephen T. Cochran v. Department of Transportation* and its companion case, *Louis Martinoli v. Stamford Police Department*, the Supreme Court addressed whether an employee who sustained a compensable injury under the Workers' Compensation Act, General Statutes § 31-275 et seq., is eligible to receive total incapacity benefits pursuant to General Statutes § 31-307 (a) when the total incapacity occurred after the employee's voluntary retirement from the workforce.

In *Cochran*, the Claimant sustained a compensable injury to his lumbar spine in 1994 while working for the Department of Transportation. The claim was accepted with a Voluntary Agreement issued in 1995. In 2003, the Claimant retired at age fifty-four (54), when he accepted an incentivized early retirement benefits package. Following the Claimant's retirement, his back condition worsened, and in 2015, he requested a workers' compensation hearing to modify his award seeking, among other things, total incapacity benefits pursuant to § 31-307(a) retroactive to his retirement in 2003. The Administrative Law Judge ultimately found that as of December 30, 2017, the Claimant was totally incapacitated and unable to work as a result of his 1994 injury, and, therefore, that he was entitled to temporary total disability benefits pursuant to § 31-307(a) retroactive to that date. The Administrative Law Judge also awarded temporary total disability benefits for a three (3)-month period following the Claimant's surgery in 2013. The Compensation Review Board affirmed the Administrative Law Judge's decision, but the Appellate Court reversed, reasoning that because the Claimant voluntarily retired and had no intent to return to work, it could not be said that his injury *resulted* in his total incapacity to work.

In *Martinoli*, the Claimant was a police officer who likewise suffered a compensable back injury during his career, retired, and years later experienced a deterioration in his condition that led to an Administrative Law Judge to award temporary total disability benefits. As in *Cochran*, the Appellate Court reversed on the same rationale, concluding that voluntary retirement precluded an individual from receiving temporary total disability benefits.

The Supreme Court, beginning with *Cochran*, disagreed. The Court explained that the case presented a question of statutory interpretation; specifically, how § 31-307(a) should be applied when total incapacity arises after retirement. Section 31-307(a) provides in relevant part: “[i]f any injury for which compensation is provided under the provisions of this chapter results in total incapacity to work, the injured employee shall be paid” weekly benefits. The Court rejected the lower courts' focus on the Claimant's intent, or lack thereof, to return to work, stressing that the statute speaks in terms of an inability to work—not an unwillingness to work. Citing *Laliberte v. United Security, Inc.*, 261 Conn. 181, 801 A.2d 783 (2002), the Court emphasized that entitlement to temporary total disability benefits depends on whether the original compensable injury is a proximate cause of the Claimant's total incapacity, and further clarified that the fact that a Claimant is unemployable for reasons other than his injury is not dispositive as the issue is whether a

Claimant has suffered some loss of earning capacity as a direct result of his work-related injury. Importantly, the plain language of §31-307(a) does not carve out an exclusion for retirees. Just as the Court in *Laliberte* declined to create a judicially crafted exclusion where one did not exist in the statute, it refused to do so in *Cochran* as well. Additionally, as the Court noted, the legislature knows how to create exceptions when it chooses to, as it has done in other contexts, but it did not do so here.

In analyzing the meaning of “total incapacity to work,” the Court relied on Osterlund v. State, 135 Conn. 498, 66 A.2d 363 (1949), in which the Court defined the phrase not as an inability to return to one’s prior employment, but as the destruction of his capacity to earn in that, or any other, occupation. The Court explained that a Claimant who has retired but later becomes unable to work because of the injury still suffers that loss because if they needed, or wanted, to reenter the workforce, the compensable injury would prevent it. Awarding benefits in such circumstances fulfills the Workers’ Compensation Act’s purpose, while reading an exclusion for retirees into the statute would undermine it.

On this reasoning, the Court concluded that, “under the plain and unambiguous language of § 31-307(a), a worker who has sustained a compensable workplace injury under the act is eligible to receive total incapacity benefits when the total incapacity occurs after their voluntary retirement from the workforce.” Accordingly, the Court reversed the judgment of the Appellate Court.

Applying that reasoning, the Court in *Martinoli* reached the same conclusion. The Claimant’s voluntary retirement did not bar an award of temporary total disability benefits because § 31-307(a) contains no such exception, and the statute’s focus is on the causal link between the compensable injury and the loss of earning capacity. As such, the Court reversed the Appellate Court’s decision in *Martinoli* as well. Together, the *Cochran* and *Martinoli* decisions underscore that voluntary retirement does not prevent an injured worker from receiving total incapacity benefits when a compensable injury later renders them unable to work.

2025 Statutory Changes

PA-4	AN ACT MAKING CHANGES TO THE FIREFIGHTERS CANCER RELIEF PROGRAM.
PA-25	AN ACT CONCERNING DEFICIENCY APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 2025, AND COMPENSATION PAID TO INJURED EMPLOYEES AND THE PARENTS OF A DECEASED EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT.
PA-30	AN ACT MAKING CHANGES TO THE CONNECTICUT RETIREMENT SECURITY PROGRAM.
PA-50	AN ACT CONCERNING MINOR REVISIONS TO THE WORKERS' COMPENSATION ACT.
PA-64	AN ACT CONCERNING PROTECTIONS FOR WORKERS AND ENHANCEMENTS TO WORKERS' RIGHTS.
PA-75	AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR MINOR AND TECHNICAL REVISIONS TO STATUTES CONCERNING LABOR.
PA-117	AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LABOR DEPARTMENT.
PA-135	AN ACT MAKING REVISIONS TO THE SECOND INJURY FUND.