



STRUNK • DODGE • AIKEN • ZOVAS  
ATTORNEYS AT LAW

## *CONNECTICUT WORKERS' COMP UPDATE*

The law firm of **Strunk Dodge Aiken Zovas (SDAZ)** wishes you a safe and fun Memorial Day holiday and provides you with our **Spring 2024 WORKERS' COMPENSATION LAW UPDATE**. 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** celebrates its 10<sup>th</sup> anniversary in 2024! We thank all of our clients for their continued support of our law firm and we look forward to assisting you in the future regarding the defense and administration of workers' compensation claims.

On March 16, 2024 **Attorney Anne Zovas of SDAZ** was inducted by the Board of Governors of the College of Workers' Compensation Lawyers as a Fellow of the College of Workers' Compensation Lawyers. The induction ceremony was held at the Union League Club in Chicago. The College of Workers' Compensation Lawyers is a national organization established to honor those attorneys who have distinguished themselves in their practice in the field of workers' compensation. Only fifteen attorneys in Connecticut have ever received this honor. Attorney Zovas' founding partners **Lucas Strunk, Jason Dodge and Richard Aiken of SDAZ** are also Fellows in the College. Below are **Attorneys Aiken, Zovas, Strunk and Dodge** at the induction ceremony for Anne.



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

**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.

**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!

**Attorneys Richard Aiken, Jason Dodge, Lucas Strunk and Anne Zovas** were named Super Lawyers for 2024 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.

**Attorney Colette Griffin of SDAZ** is the current President of Connecticut Votes for Animals, an organization that advocates for laws to protect the welfare of animals. The organization is active at the legislature during the legislative session and is active throughout the year with educational projects. Additionally, Attorney Griffin is a Court-Appointed Advocate for animals in animal cruelty cases. She has recently served as an advocate in a case in which an individual was found responsible for felony cruelty charges. These cases are pro bono. Attorney Griffin rescues animals on a regular basis and has been known to stop on her way for hearings to assist in the rescue of animals, including kittens, birds, dogs on the highway, geese trying to cross the highway or to catch a dog on the run. Most recently Attorney Griffin spoke at an event to support Federal Legislation to penalize puppy mills who violate animal cruelty laws, speaking alongside U.S. Senator Richard Blumenthal regarding Goldie's Law.





Law Day 2024 was observed at Hartford Superior Court on May 10, 2024. The theme this year was "Voices of Democracy". Secretary of State Stephanie Thomas gave an engaging and motivating speech to the many judges, lawyers and public attendees. **Attorney Anne Zovas of SDAZ** participated in the program on behalf of the Hartford County Bar Association by presenting a scholarship award.

**Attorney Jason Dodge of SDAZ** was 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*.

The Hartford County Bar Foundation Joseph Cassidy Memorial Road Race was held on Saturday, May 11, 2024. Runners and walkers enjoyed the 5K trail at the MDC reservoir in West Hartford for this annual event. Proceeds from the event support monetary grants for organizations dedicated to assisting the poor, homeless, and disabled in the greater Hartford area. **Attorney Anne Zovas from SDAZ** chairs the race and **Attorney Phil Markuszka** is a board member for The Hartford County Bar Association, and Road Race committee member. Below are Phil’s wife Jamie, daughter Olivia, Phil and Anne at the race.



**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.”

Our colleague **Maureen Bentley**, an experienced workers compensation adjuster, has authored an *Adjuster's Guide for Handling Claims: Workers' Compensation*. This is not jurisdictionally specific and can be handy for all adjusters in any state. The book can be found at Amazon.

**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. Kids' Chance of Connecticut will hold their annual golf event on Monday September 30, 2024 at Glastonbury Hills Country Club. 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).

Kids'  Chance of CT

2024 Annual  
**Charity Golf**  
Outing & Fundraiser

**Monday, September 30<sup>th</sup>, 2024**

 **Glastonbury Hills**  
COUNTRY CLUB

239 Country Club Road  
South Glastonbury, CT 06073

**SAVE THE DATE**

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 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.

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#### **CONNECTICUT WORKERS' COMPENSATION COMMISSION NEWS**

#### **BURIAL EXPENSES**

As of January 1, 2024, the burial fee for deaths covered under the Workers' Compensation Act is \$13,885.25 based on the overall 2023 CPI-W increase for the northeast of 3.2%. 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.

<https://portal.ct.gov/WCC/Home-News/Workers-Compensation-News/2024/2024-Burial-Expense-Adjustments>

## **MILEAGE REIMBURSEMENT**

As of January 1, 2024, the mileage reimbursement rate is 67 cents per mile.

As of January 1, 2023, the mileage rate had been 65.5 cents per mile. Prior to that the rate had been at 62.5 cents per mile since July 1, 2022

<https://portal.ct.gov/WCC/Home-News/Workers-Compensation-News/2024/2024-Mileage-Reimbursement-Rate-Rises>

## **MEMORANDUM 2024-02**

**2024 Official Connecticut Fee Schedule for Hospitals and Ambulatory Surgical Centers effective April 1, 2024 has been issued by the Workers' Compensation Commission.**

To order, please contact OPTUM360 at 1-800-464-3649, option 1, or visit <https://www.optum360coding.com/reference-products/workers-compensation/>, keyword "Connecticut".

## **MEMORANDUM 2024-01**

The Commission has immediately suspended the mediation program and is beginning a review of the guidelines for the program. The suspension is due to "parties failure to comply with the program guidelines and misuse of the program."

We are sure that we will hear more about this in the future. We hope that the Commission will be able to begin the program again. In the meantime, there are a number of private mediation services that are available to assist in resolving claims. Please contact us if you have any questions about private mediation.

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2024/Memorandum-No-2024-01>

## **MEMORANDUM 2023-09**

This memo addresses legal fees between claimants and their counsel. As of January 1, 2024 counsel fees for new attorney fee agreements will increase from 20 to 25%. Requests for fees greater than 25% will not be allowed. For prior fee agreements which had the legal fee rate at 20% those will not be affected by this memorandum.

<https://portal.ct.gov/WCC/Workers-Compensation-News/Commission-Memorandums/2023/Memorandum-No-2023-09>

## **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>

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>

## **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 2023-03**

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.*

## **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.

## **MEDICARE NEWS FROM CMS**

The following alert has been issued by CMS:

### **2023 Recovery Thresholds for Certain Liability Insurance, No-Fault Insurance, and Workers' Compensation Settlements, Judgments, Awards or Other Payments**

As required by section 1862(b) of the Social Security Act, the Centers for Medicare and Medicaid Services (CMS) has reviewed the costs related to collecting Medicare's conditional payments and compared this to recovery amounts. Beginning January 1, 2023, the threshold for physical trauma-based liability insurance settlements will remain at \$750. CMS will maintain the \$750 threshold for no-fault insurance and workers' compensation settlements, where the no-fault insurer or workers' compensation entity does not otherwise have ongoing responsibility for medicals. This means that entities are not required to report, and CMS will not seek recovery on settlements, as outlined above. Please note that the liability insurance (including self-insurance) threshold does not apply to settlements for alleged ingestion, implantation, or exposure cases.

## **LIFE EXPECTANCY TABLES**

Beginning February 24, 2024, CMS will utilize the CDC's "Table 1: Life Table for the total population: United States, 2021" for the Workers' Compensation Medicare Set Aside life expectancy calculation.

## CASE LAW

### **AJDINI v. FRANK LILL & SON, INC., 349 Conn 1 (April 23, 2024)**

The claimant alleged two separate injuries on different dates of accident with same employer. He filed two timely notices of claim regarding the accidents; both were received on May 3, 2019. The respondents issued two Form 43s in response to the claims and mailed them on May 29, 2019. The Form 43s were received by the Commission on June 3, 2019 and by the claimant on June 6, 2019. A Motion to Preclude was filed regarding both claims; the preclusion was granted by the Administrative Law Judge. On appeal the respondents contended that the disclaimers were timely issued and that the mailing of the Form 43's on May 29, 2019 was within the twenty-eight day time period required by Connecticut General Statutes Section 31-294c(b). The respondents contended that the "Mail Box Rule" applied and that the preclusion should not be granted. The respondents asserted that the mailing of the documents on May 29, 2019 met the requirement of the statute to "file with the commissioner." At the CRB, the Board affirmed the granting of the Motion to Preclude and pointed out that the "Mail Box Rule" only assumes that the document is received if it is properly mailed and does not go to the issue of the timing of receipt of the mailing. The Board held that the statute required actual receipt of the Form 43 before the twenty-eight day period and that mailing the notice to contest within the twenty-eight day period was not sufficient to avoid preclusion. On appeal to the Connecticut Supreme Court, the decision of the CRB was affirmed that the respondents were precluded from contesting liability due to an untimely filed Form 43. The Supreme Court noted that the dictionary definition of the word "file" means "to deliver;" accordingly the Court held that "...a notice of intention to contest compensation must be delivered, not just mailed, to the administrative law judge on or before the twenty-eighth day after the employer received written notice of the claim." It is noteworthy that the decision states that the statute requires the disclaimer to the commission to be **filed** within twenty-eight days but, regarding the disclaimer to the employee, it needs only be **sent** within twenty-eight days. The Court stated that the definition of "send" is "to deposit in the mail." The Court held that to avoid preclusion a Form 43 "must be delivered to the administrative law judge on or before the twenty-eighth day after the employer has received a written notice of claim...." Recommendation: If necessary respondents should consider hand-delivery of the Form 43 to the Commission rather than relying on the mail that could be delayed. It is better to take the time to hand-deliver a denial rather than risk preclusion of valid defenses.

### **SAVVAS V. ALLEGIS GROUP/MAXIM HEALTH, 6511 CRB-1-23-8 (MAY 10, 2024)**

The CRB reversed, in part, the Trial Judge regarding a finding of undue delay, penalties, interest and attorney fees brought pursuant to General Statutes Sections 31-300 and 31-288(b). The claimant had a compensable accident on May 2, 2019. In 2022 the Trial Judge found that a cervical spine fusion surgery should be authorized and indemnity paid although the order was not specific as to what was owed. No indemnity was paid by the respondents. No motion to correct or articulate was filed by either party. In 2023, four months after the initial decision, a further formal hearing was held to address the issue of undue delay because nothing had been paid. The Judge did not agree to put the exhibits from the first formal hearing into evidence at the second formal. The Judge found that there was undue delay and ordered interest at 12% and attorney fee of \$10,400 as well as \$500 per day penalty pursuant to Section 31-288(b). The Judge ordered TP to be paid as of August 7, 2019. On appeal the CRB remanded the case back to the Judge finding that it was error not to allow into evidence at the second formal hearing the evidentiary records from the first. The claimant attorney fee was reduced to \$6,000 (time incurred by the claimant attorney to prepare for formal hearing was not allowed). The order of \$500 per day was reversed and remanded since the order was in excess of the statutory limit of Section 31-288(b). The Judge's prospective ruling re TP benefits was also reversed. The moral of the story is that if there is an order issued that needs to be clarified as to what is owed, the parties should move for the trier to articulate the decision and specify the amounts owed.