
The “officially released” date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the “officially released” date appearing in the opinion. In no event will any such motions be accepted before the “officially released” date.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the electronic version of an opinion and the print version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest print version is to be considered authoritative.

The syllabus and procedural history accompanying the opinion as it appears on the Commission on Official Legal Publications Electronic Bulletin Board Service and in the Connecticut Law Journal and bound volumes of official reports are copyrighted by the Secretary of the State, State of Connecticut, and may not be reproduced and distributed without the express written permission of the Commission on Official Legal Publications, Judicial Branch, State of Connecticut.

BORDEN, J., concurring. I fully agree with and join the well reasoned majority opinion. I write separately solely to express my doubt about the viability, if any, of the concept of common-law apportionment in the context of our Workers' Compensation Act.¹

The concept apparently stems from this court's somewhat Delphic decision in *Mund v. Farmers' Cooperative, Inc.*, 139 Conn. 338, 344, 94 A.2d 19 (1952), in which we appeared to approve of common-law notions of apportionment of liability among employers and insurers. Since then, however, we repeatedly have stated that workers' compensation law is purely a matter of statute. See, e.g., *Cantoni v. Xerox Corp.*, 251 Conn. 153, 159–60, 740 A.2d 796 (1999); *Discuillo v. Stone & Webster*, 242 Conn. 570, 576, 698 A.2d 873 (1997). We also have seen the broad expansion, and then the contraction, of the second injury fund, as well as various other workers' compensation statutes addressing specific apportionment questions. To the extent, therefore, that *Mund* permitted a workers' compensation commissioner to employ common-law, as opposed to statutory, concepts of apportionment, I have grave doubts as to its continued viability.

¹I recognize that, as the majority opinion discloses, it is not necessary to examine that question in the present case, because this case does not squarely present it, and I fully agree with that wise approach.