

**[J-7-2007]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**WESTERN DISTRICT**

|                                |   |   |
|--------------------------------|---|---|
| CHARLES YOUNG, DECEASED,       | : | No. 41 WAP 2006                         |
| ARLENE YOUNG, WIDOW            | : |   |
|                                | : |   |
|                                | : |   |
| v.                             | : | Appeal from the Order of the            |
|                                | : | Commonwealth Court entered April 5,     |
| WORKERS' COMPENSATION APPEAL   | : | 2006 at No. 1753 CD 2005, reversing the |
| BOARD (ZINC CORPORATION OF     | : | Order of the Workers' Compensation      |
| AMERICA)                       | : | Appeal Board entered August 3, 2005 at  |
|                                | : | No. A04-1485.                           |
|                                | : |   |
| APPEAL OF: ZINC CORPORATION OF | : | 897 A2.d 530 (Pa. Cmwlth. 2006)         |
| AMERICA                        | : |   |
|                                | : |   |
|                                | : | ARGUED: March 5, 2007                   |

**CONCURRING STATEMENT**

**MR. JUSTICE SAYLOR**

**DECIDED: MAY 31, 2007**

I join the majority disposition of this appeal, because I believe that it effectuates a plain-meaning application of Section 301(c)(2) of the Workers' Compensation Act, 77 P.S. §411(2). I write only to note that Employer's substantive due process argument gives me pause, since the plain-meaning interpretation of Section 301(c)(2) eliminates (or at least severely restricts) the conventional workers' compensation concept of employer-specific work relatedness in the occupational disease setting. I believe, however, that any developed discussion of substantive due process relative to workers' compensation would need to encompass a discussion of the trilogy of decisions in which the United States Supreme Court, in very general terms, approved the basic loss-spreading scheme inherent in the general workers' compensation concept as consistent

with constitutional due process norms. See New York Central R.R. Co. v. White, 243 U.S. 188, 37 S. Ct. 247 (1916); Hawkins v. Bleakly, 243 U.S. 210, 37 S. Ct. 255 (1916); Mountain Timber Co. v. State, 243 U.S. 219, 37 S. Ct. 260 (1916). Since Employer has not included such a discussion in its brief, or referenced any other substantive due process decision, I find its argument on this point to be insufficiently developed to warrant further consideration in this case.

Madame Justice Baldwin joins this concurring statement.