

SUPREME COURT OF CONNECTICUT

Thomas v. Department of Developmental Services, 297 Conn. 391

999 A.2d 682 (2010) · No. No. 18458 · Decided July 13, 2010

SUMMARY

The Supreme Court of Connecticut held that an employer's statutory lien under General Statutes § 31-293(a) includes a credit for unknown future workers' compensation benefits in the amount of an injured employee's net recovery from a third-party tortfeasor. The court concluded that the lien's scope is coextensive with the employer's statutory claim and affirmed the Compensation Review Board's decision.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Zarella, J.; Rogers, C.J.; Norcott, J.; Katz, J.; Palmer, J.; Vertefeuille, J.; McLachlan, J.
JURISDICTION	Connecticut
DECIDED	July 13, 2010
DOCKET	No. 18458
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Connecticut Workers' Compensation Review Board's reversal of a workers' compensation commissioner's decision. The Supreme Court transferred the appeal from the Appellate Court and reviewed the board's statutory interpretation de novo.
STANDARD OF REVIEW	The court deferred to agency factual and discretionary determinations but applied plenary review to the statutory interpretation issue because neither the Supreme Court nor the Appellate Court had previously construed the scope of the lien provision and the board had not applied a time-tested agency interpretation.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential
PARTIES	Janice Thomas v. Department of Developmental Services, GAB Robins of North America, Inc.

TOPICS

workers compensation

statutory interpretation

legislative intent

administrative law

remedies

PRACTICE AREAS

workers compensation

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remedies

QUESTIONS PRESENTED

1. Whether General Statutes § 31-293(a)'s statutory lien provision entitles an employer to a credit for unknown, future workers' compensation benefits in the amount of an injured employee's net proceeds from a third-party judgment or settlement.
2. Whether the employer waived its right to a future-benefit credit by notifying the plaintiff's counsel of the lien instead of filing a direct action against the third-party tortfeasor.
3. Whether the court should require an employer to prove that a double recovery actually exists before applying the statutory lien credit.

HOLDINGS

1. The scope of an employer's lien under General Statutes § 31-293(a) is coextensive with the scope of the employer's statutory claim and therefore includes a credit for unknown, future workers' compensation benefits in the amount of the employee's net proceeds from a third-party recovery.
2. The court declined to impose a requirement that the employer prove that a double recovery actually exists before applying the credit; § 31-293(a) gives the employer's claim precedence over the employee's claim in the third-party recovery.
3. The Department did not waive its claim to a credit for unknown future benefits by choosing to notify the plaintiff of its lien rather than filing a direct action against the third-party tortfeasor.

KEY QUOTATIONS

“Accordingly, we do not defer to the board's construction and exercise plenary review in accordance with our well established rules of statutory construction.” (297 Conn. 391, 397)

“We therefore conclude that the scope of an employer's lien is coextensive with that of an employer's "claim," as defined by § 31-293(a) and interpreted in Enquist, and, therefore, includes a credit for unknown, future workers' compensation benefits in the amount of the net proceeds that the injured employee recovers from a third party tortfeasor.” (297 Conn. 391, 404-405)

“Thus, if an employee incurs future compensable expenses that ultimately exceed the net proceeds of the employee's third party recovery, that employee would benefit from the safety net in the statute because the employee could continue to claim benefits from the employer.” (297 Conn. 391, 407)

FACTUAL BACKGROUND

On January 29, 2004, Janice Thomas, an employee of the Department of Developmental Services, was injured when she fell on an icy walkway leading to her workplace. The Department initially accepted the workers' compensation claim, later paid \$2,523.43 in benefits, and asserted a lien after Thomas pursued a third-party

claim. Thomas settled that claim for \$45,000 and, after deductions and reimbursement of the existing lien, received \$24,713.37 in net proceeds. The parties disputed whether the Department could credit those net proceeds against unknown future workers' compensation benefits.

PROCEDURAL HISTORY

Thomas sustained work-related injuries and received workers' compensation benefits. She settled a third-party liability claim, and the Department claimed a lien against the settlement proceeds and a credit for future workers' compensation benefits. The workers' compensation commissioner denied the requested future-benefit credit, but the Review Board reversed. The Supreme Court affirmed the board.

DISPOSITION

affirmed

CASES CITED

- Harpaz v. Laidlaw Transit, Inc., 286 Conn. 102, 942 A.2d 396 (2008)
- Enquist v. General Datacom, 218 Conn. 19, 587 A.2d 1029 (1991)
- Saunders v. Firtel, 293 Conn. 515, 978 A.2d 487 (2009)
- McWeeny v. Hartford, 287 Conn. 56, 946 A.2d 862 (2008)
- Weems v. Citigroup, Inc., 289 Conn. 769, 961 A.2d 349 (2008)
- Manifold v. Ragaglia, 272 Conn. 410, 862 A.2d 292 (2004)
- Stuart v. Stuart, 297 Conn. 26, 996 A.2d 259 (2010)
- Libby v. Goodwin Pontiac-GMC Truck, Inc., 241 Conn. 170, 695 A.2d 1036 (1997)
- Rosenbaum v. Hartford News Co., 92 Conn. 398, 103 A. 120 (1918)
- Stavola v. Palmer, 136 Conn. 670, 73 A.2d 831 (1950)
- Mickel v. New England Coal & Coke Co., 132 Conn. 671, 47 A.2d 187 (1946)
- Barry v. Quality Steel Products, Inc., 280 Conn. 1, 905 A.2d 55 (2006)
- In re Judicial Inquiry No. 2005-02, 293 Conn. 247, 977 A.2d 166 (2009)
- State v. Fernando A., 294 Conn. 1, 981 A.2d 427 (2009)
- Berkley v. Gavin, 253 Conn. 761, 756 A.2d 248 (2000)
- State v. Salamon, 287 Conn. 509, 949 A.2d 1092 (2008)
- Durniak v. August Winter & Sons, Inc., 222 Conn. 775, 610 A.2d 1277 (1992)
- Paternostro v. Edward Coon Co., 217 Conn. 42, 583 A.2d 1293 (1991)
- Rayhall v. Akim Co., 263 Conn. 328, 819 A.2d 803 (2003)
- Del Toro v. Stamford, 270 Conn. 532, 853 A.2d 95 (2004)
- Soracco v. Williams Scotsman, Inc., 292 Conn. 86, 971 A.2d 1 (2009)
- AvalonBay Communities, Inc. v. Orange, 256 Conn. 557, 775 A.2d 284 (2001)
- State v. Rupar, 293 Conn. 489, 978 A.2d 502 (2009)

- Genesky v. East Lyme, 275 Conn. 246, 881 A.2d 114 (2005)
- Pascarelli v. Moliterno Stone Sales, Inc., 44 Conn. App. 397, 689 A.2d 1132, cert. denied, 240 Conn. 926, 692 A.2d 1282 (1997)

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