



Testimony of Louise DiCocco  
Assistant Counsel, CBIA  
Before the Labor & Public Employees Committee  
March 3, 2016

Re: Testimony in Opposition to **HB 5449**, AAC Liability for Unfair Insurance Practices in Workers' Compensation Claims.

Good afternoon Senator Gomes, Representative Tercyak, members of the Labor and Public Employees committee. Thank you for the opportunity to testify today. My name is Louise DiCocco, and I am Assistant Counsel at the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut, but most of our members are small businesses of 50 or fewer employees.

CBIA is opposed to the bill. HB 5449 would effectively overturn the Supreme Court decision in DeOliviera v. Liberty Mutual, 273 Conn 487 (2005) by allowing an individual seeking compensation for a workers' compensation claim to bring a cause of action against an employer or insurer that has unreasonably contested liability or unreasonably delayed payments or adjustments of such compensation.

The Workers' Compensation act provides an exclusive remedy for injuries sustained by an employee during the course of employment. An employee relinquishes the right to sue for damages in exchange for quick and certain compensation for the injury. There are already penalties/remedies in place if a Workers' Compensation Commissioner finds an unreasonable delay has taken place. The remedy for misconduct related to the handling of claims, even if for unreasonably delayed payment falls exclusively within the purview of the workers' compensation act. The Supreme Court was clear in its decision that the exclusive remedy provisions of the workers' compensation act prohibits damages for injuries arising out of and in the course of employment and INCLUDES injuries arising out of the ENTIRE workers' compensations claims process.

Even the defendant in the DeOliviera case acknowledged the workers' compensation provides remedies for unreasonable delays, in the form of penalties on the employer or insurer – interest, attorney's fees and a 20% penalty- he didn't find them satisfactory.

In closing, the Workers' Compensation Act is a bargain and agreement between an employer and an employee to ensure prompt resolution of an employee's injury during the course of employment. The employee receives medical care and compensation and avoids the costly, prolonged battle of litigation. If and when necessary, the act empowers a Workers' Compensation Commissioner to take measures to ensure prompt payment of benefits and to address delays in the withholding of benefits. (C.G.S. Sec. 31-295(c)). Furthermore, the Attorney General is also authorized to include civil actions to collect payment.

CBIA urges you to OPPOSE this bill. If you have any questions, please contact Louise DiCocco at [louise.dicocco@cbia.com](mailto:louise.dicocco@cbia.com). or 860.244.1169.