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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.

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ZARELLA, J., concurring. I concur in the result reached by the majority but write separately because I disagree with the majority's analysis. The majority opinion provides a textbook example of the *Courchesne*[1] approach to statutory interpretation under which a court ''pick[s] and choose[s] from among various tools of interpretation''; *State* v. *Courchesne*, 262 Conn. 537, 621, A.2d (2003) (*Zarella*, *J.*, with whom *Sullivan*, *C. J.*, joins, dissenting); instead of focusing on the plain language of the statute under interpretation. In my view, the application of that philosophy makes this otherwise very simple case needlessly confusing. Specifically, the *Courchesne* methodology induces the majority to engage in a lengthy analysis of the genealogy of the workers' compensation statute at issue, the common law and the statute's legislative history that ultimately is rendered moot by virtue of the majority's conclusion based on the statute's text.

The majority states that the primary questions in this case are: (1) whether General Statutes § 31-349 abrogates common-law apportionment between workers' compensation insurance carriers; and (2) whether § 31-349 (d), which closed the second injury fund to the transfer of claims for injuries occurring on or after July 1, 1995, renders the workers' compensation insurance carrier, at the time of an employee's injury, solely liable for disability payments made in connection with that injury, when that injury, although separate and distinct from a previous injury, had been aggravated by the previous injury. See part III of the majority opinion.

If, as the majority concludes, the answer to the second question is yes, then the first question is irrelevant. I simply fail to see how the majority, having concluded that § 31-349 (d) renders ''the last employer . . . solely liable for the benefits of the second injury,'' possibly could conclude that common-law apportionment nevertheless is possible under § 31-349. In other words, the majority, quite sensibly, determines that the text of § 31-349 (d), which provides that ''[a]ll [second injury] claims shall remain the responsibility of the employer or its insurer,'' and the lack of any statutory apportionment procedure in § 31-349 lead to the conclusion that ''the legislature, in enacting § 31-349 (d), intended that the last employer be solely liable for the benefits of the second injury.'' In light of this conclusion, how could there possibly be any common-law apportionment that would allow the last employer to avoid sole liability for the benefits of the second injury?[2]

Despite the simplicity of this textual conclusion, however, which the majority finally reaches in part III of its opinion, the majority engages in an extensive discussion of the circumstances surrounding the enactment

of and subsequent modifications to § 31-349, case law, legislative history and genealogy prior to concluding that ''common-law apportionment is no longer available to second injury employers . . . .'' Although I share Justice Borden's doubts concerning the viability of the apportionment principles enunciated by this court in *Mund* v. *Farmers' Cooperative, Inc.*, 139 Conn. 338, 344–45, 94 A.2d 19 (1952), surely, apportionment is no longer available in light of the majority's conclusion that ''the legislature, in enacting § 31-349 (d), intended that the last employer be solely liable for the benefits of the second injury.''

In my view, the majority's holistic approach to statutory interpretation under which all factors are considered does little more than cloud its own textual analysis and conclusions. What would the majority have done if it had determined that *Mund* provided for common-law apportionment? Would it have disregarded its conclusion that the legislature provided that the second employer shall be solely liable? Such are the questions engendered by an approach to statutory interpretation that fails to pay proper heed to the fundamental role that a statute's text plays in its interpretation.

[1] *State* v. *Courchesne*, 262 Conn. 537, A.2d (2003).

[2] To the extent that the majority suggests that, notwithstanding the expressed legislative intent in § 31-349 (d) to render the second employer solely liable, there still is a possibility of *common-law* apportionment, I disagree. Such reasoning is akin to the reasoning that this court employed in *Bhinder* v. *Sun Co.*, 246 Conn. 223, 717 A.2d 202 (1998), in which the court recognized a common-law action for apportionment between negligent and intentional tortfeasors notwithstanding the fact that the negligence apportionment statute did not provide for such apportionment. Id., 230, 234. The legislature promptly responded to our holding in *Bhinder* by enacting Public Acts 1999, No. 99-69, § 1, which precluded, inter alia, apportionment between negligent and intentional tortfeasors in civil actions pending or filed on or after August 11, 1998, the date on which this court released its decision in *Bhinder*. See, e.g., *Allard* v. *Liberty Oil Equipment Co.*, 253 Conn. 787, 801–803, 756 A.2d 237 (2000).