ZARELLA, J., concurring. I agree with the result reached by the majority. I write separately, however, because, in my view, nothing in General Statutes § 7-433c[1] requires that notice of hypertension or heart disease be given to a municipal employer within a specified period of time in order for a claimant to receive compensation. I am aware that our precedent has repeatedly interpreted § 7-433c to require claimants to comply with the notice provisions relating to accidental injuries contained in the Workers' Compensation Act (act), General Statutes § 31-294c (a);[2] see, e.g., *Collins* v. *West Haven*, 210 Conn. 423, 430, 555 A.2d 981 (1989); and, as a result, our case law has been preoccupied with the quixotic exercise of attempting to determine "the time when and the place where" the hypertension or heart disease at issue occurred.[3] See, e.g., *Arborio* v. *Windham Police Dept.*, 103 Conn. App. 172, 187, 928 A.2d 616 (2007) (concluding that "[t]wo office visits showing high blood pressure readings, a stress test and an employee's awareness of those elevated readings and awareness that 'he had a potential hypertension problem that may require medication' simply are not sufficient to support the conclusion that the plaintiff had an accidental injury [of hypertension] that required him to notify his employer and to file a claim of benefits"); *Pearce* v. *New Haven*, 76 Conn. App. 441, 450, 819 A.2d 878 (concluding that plaintiff's injury of hypertension occurred sometime between 1988 and 1990, because plaintiff had been repeatedly advised by his physician of high blood pressure readings during that time period), cert. denied, 264 Conn. 913, 826 A.2d 1155 (2003). Because I conclude that our previous interpretations of § 7-433c are clearly wrong, in that applying the notice requirements of § 31-294c (a) violates the express terms of § 7-433c, and that the notion that hypertension or heart disease is an "accidental injury" is absurd and contrary to common medical knowledge because such conditions are not definitively determinable as to time and place, I would overrule our prior decisions in this area.

Section 7-433c (a) provides in relevant part: "Notwithstanding any provision of chapter 568 or any other general statute, charter, special act or ordinance to the contrary, in the event a uniformed member of a paid municipal fire department or a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability, he or his dependents, as the case may be, shall receive from his municipal employer compensation and medical care

in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of his employment and was suffered in the line of duty and within the scope of his employment . . . .''

In my view, the plain meaning of § 7-433c *unequivocally* directs municipal employers to pay compensation and to provide medical care to qualified claimants *whenever* such claimants suffer ''any condition or impairment of health caused by hypertension or heart disease resulting in . . . death or . . . temporary or permanent, total or partial disability . . . .'' Indeed, we have previously stated that ''[t]he mere fact that a fireman or policeman has hypertension or heart disease and dies or is disabled as a result thereof qualifies him or his dependents for benefits under this section.'' *Plainville* v. *Travelers Indemnity Co.*, 178 Conn. 664, 670, 425 A.2d 131 (1979). Nothing in § 7-433c requires claimants to comply with the notice requirements of chapter 568 in order to receive compensation. In fact, quite the opposite is true. In chapter 568, which contains the act, the legislature defined '' '[p]ersonal injury' '' to include accidental injuries, repetitive trauma, and occupational diseases. General Statutes § 31-275 (16) (A). The purpose of distinguishing between these different types of personal injury is to allow for different notice provisions depending on the type of personal injury or disability suffered by the employee. See General Statutes § 31-294c; *Malchik* v. *Division of Criminal Justice*, 266 Conn. 728, 744, 835 A.2d 940 (2003) (claims for injuries resulting from repetitive trauma subject to same one year limitation period as claims for accidental injuries). In § 7-433c, however, the legislature used the term ''personal injury,'' without describing the injury as an accidental injury, repetitive trauma or occupational disease, which strongly suggests that the legislature never was contemplating any notice requirement for personal injuries under § 7-433c. In other words, if the legislature were contemplating a notice requirement for § 7-433c injuries, they would have designated the particular category of personal injury that would have then controlled the appropriate time limitations for the notice. In addition, I conclude that the legislature's use of the phrase ''[n]otwithstanding any provision of chapter 568 . . . to the contrary'' also clearly evidences that the legislature intended that the notice requirements of chapter 568 and any other statutory impediments to recovery not apply to claims under § 7-433c. Thus, to be clear, the *only* provisions of chapter 568 that are incorporated into § 7-433c are those related to payment schedules and methods of payment for personal injuries. This interpretation is consistent with our case law that has deemed the compensation payable under § 7-433c an '' 'outright bonus' . . . .'' *O'Connor* v. *Waterbury*, 286 Conn. 732, 752, 945 A.2d 936 (2008).

It appears that our case law in this area was first led astray in *Janco* v. *Fairfield*, 39 Conn. Sup. 403, 404–405, 466 A.2d 1 (1983), in which the plaintiff police officer filed a notice of claim with the workers' compensation commissioner (commissioner) for benefits under § 7-433c nearly three years after he became disabled due to heart disease. After a hearing, the commissioner awarded the plaintiff compensation. Id., 405. The town of Fairfield appealed to the compensation review board which affirmed the award. Id. The town then appealed the board's decision to the Appellate Session of the Superior Court claiming that the plaintiff was barred from recovering benefits under § 7-433c because he did not comply with the notice provisions contained in General Statutes § 31-294, which is now codified at § 31-294c. Id. The plaintiff responded that although § 7-433c provides that municipal employers must pay eligible fireman and policemen " 'compensation and medical care in the same amount and *the same manner as that provided under* [the act],' " the term "manner," as used in that statute, modifies "compensation and medical care" and, therefore, "refers solely to the types of benefits applicable to a given claim and the method of payment." (Emphasis in original.) Id. Accordingly, the plaintiff claimed that entitlement to compensation under § 7-433c was not conditioned on compliance with the notice requirements of the act. The court disagreed and concluded that the reference to chapter 568 contained in § 7-433c required that claims brought pursuant to § 7-433c comply with the procedural mandates of the act, including the notice provisions contained in § 31-294. Id., 405–406.

In my view, the court in *Janco* misinterpreted § 7-433c. I agree with the plaintiff in that case that the term "same manner," as used in § 7-433c, modifies "compensation and medical care" and, therefore, refers solely to the types of benefits applicable to a given claim and the method of payment. In addition, I note that the commissioner and the compensation review board in *Janco* also must have agreed with this interpretation in light of the fact that they ruled in favor of the plaintiff. Finally, I conclude that the interpretation adopted by the court in *Janco* is further flawed in that it gives no meaning to the statute's introductory phrase, "[n]otwithstanding any provision of chapter 568 . . . to the contrary . . . ." See, e.g., *American Promotional Events, Inc.* v. *Blumenthal*, 285 Conn. 192, 203, 937 A.2d 1184 (2008) ("[i]nterpreting a statute to render some of its language superfluous violates cardinal principles of statutory interpretation").[4]

I recognize that the rule in *Janco* has been the law in this state for twenty-seven years and that "[t]his court has repeatedly acknowledged the significance of stare decisis to our system of jurisprudence because it gives stability and continuity to our case law." *Conway* v.

Wilton, 238 Conn. 653, 658, 680 A.2d 242 (1996). Nevertheless, "this court also has concluded that, [t]he value of adhering to precedent is not an end in and of itself . . . ." (Internal quotation marks omitted.) *State* v. *Miranda*, 274 Conn. 727, 734, 878 A.2d 1118 (2005); see also *Conway* v. *Wilton*, supra, 238 Conn. 660 ("[s]tare decisis is not an inexorable command" [internal quotation marks omitted]). "It is more important that the court should be right upon later and more elaborate consideration of the cases than consistent with previous declarations." *Barden* v. *Northern Pacific Railroad Co.*, 154 U.S. 288, 322, 14 S. Ct. 1030, 38 L. Ed. 934 (1894). "[T]here is a well recognized exception to stare decisis under which a court will examine and overrule a prior decision that is clearly wrong." *White* v. *Burns*, 213 Conn. 307, 335, 567 A.2d 1195 (1990). "In short, consistency must not be the only reason for deciding a case in a particular way, if to do so would be unjust. Consistency obtains its value best when it promotes a just decision." *Conway* v. *Wilton*, supra, 662.

After careful consideration of *Janco* and its progeny; see, e.g., *Collins* v. *West Haven*, supra, 210 Conn. 430; I have become convinced that the holding in *Janco*, that claims brought pursuant to § 7-433c must comply with the notice provisions contained in § 31-294c, was clearly wrong and, therefore, should be overruled.

[1] See footnote 2 of the majority opinion for the full text of the relevant portions of § 7-433c.

[2] General Statutes § 31-294c (a) provides in relevant part: "No proceedings for compensation under the provisions of this chapter shall be maintained unless a written notice of claim for compensation is given within one year from the date of the accident . . . which caused the personal injury . . . . Notice of a claim for compensation may be given to the employer or any commissioner and shall state, in simple language, the date and place of the accident and the nature of the injury resulting from the accident . . . and the name and address of the employee and of the person in whose interest compensation is claimed. . . ."

[3] Pursuant to General Statutes § 31-275 (16) (A), an accidental injury is an "injury that may be definitely located as to the time when and the place where the accident occurred . . . ."

[4] The majority misconstrues § 7-433c in the same manner as the court in *Janco* did. According to the majority, it is not unreasonable to conclude that the legislature intended for § 7-433c to comply with the act's notice provisions on the basis of language in the statute mandating that compensation shall be paid "in the same amount and the same manner as that provided under [the act] . . . ." I disagree for several reasons.

First, as set forth in this concurring opinion, there is no express directive in § 7-433c requiring claimants to comply with the notice provisions under the act. Rather, the legislature has provided that claims for compensation under § 7-433c shall be paid "[n]otwithstanding any provision of chapter 568 . . . to the contrary . . . ."

Second, "when a statute includes no express statute of limitations, [this court] should not simply assume that there is no limitation period. Instead, we borrow the most suitable statute of limitations on the basis of the nature of the cause of action or of the right sued upon." *Bellemare* v. *Wachovia Mortgage Corp.*, 284 Conn. 193, 199, 931 A.2d 916 (2007); see also 51 Am. Jur. 2d 533, Limitation of Actions § 129 (2000) ("When a statute includes no express statute of limitations, the court does not assume that there are no time limits; instead, it borrows the most suitable statute or other rule of timeliness . . . . The nature of the cause of action or of the right sued upon is the test by which to determine which statute of limitations applies and whether the action is barred by the running of the limitation period. Thus, for an action under a state statute that lacks an express limitations period, the courts look to analogous causes of action for which express

limitations periods are available, either by statute or by case law."). This means that claims under § 7-433c are subject to a statute of limitations determined by reference to other provisions for disability benefits under title 7 of the General Statutes, such as General Statutes § 7-432, which provides that a claim for a retirement allowance due to a disability must be filed within one year after the disability is incurred.

Finally, it is unclear why the majority thinks that the legislature intended to place claims under § 7-433c on the same footing as claims under the act in light of this court's repeated statements that "an award of benefits under § 7-433c is *not* a workers' compensation award . . . ." (Emphasis added.) *Genesky* v. *East Lyme*, 275 Conn. 246, 252 n.9, 881 A.2d 114 (2005). Indeed, the benefits at issue are not included in the act, but, rather, are contained in part II of title 7 of the General Statutes, which concerns the retirement benefits of municipal employees. Accordingly, there is no reason for this court to assume that the legislature intended to place claims brought pursuant to § 7-433c on equal footing with claims brought pursuant to the act because, had the legislature intended to do so, it would have included such benefits expressly within the act. See *Dept. of Public Safety* v. *Freedom of Information Commission*, 298 Conn. 703, 729, A.3d (2010) (legislature knows how to convey its intent expressly).