

New Sexual Harassment  
Training Requirements

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information

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# Trust Intelligence

A Newsletter published by the Workers' Compensation Trust

## \$7,000,000 Premium Return!!

How do you say "Happy Holidays"? Well, giving back \$7 million is a good start! We're delighted to announce that the Board of Directors has declared a record setting \$7 million premium return to qualifying members for the 2019 year! No doubt, there will be many smiling Trust members this holiday season! This return shatters the prior \$5 million records awarded to members for both the 2016 and 2017 years with \$21 million returned in the last 4 years alone! The Trust's results continue to prove value with an impressive record of producing strong, profitable financial results in some of the most loss intensive occupational classes in the workers' compensation industry.

Diane Ritucci, President and CEO stated: "We're ecstatic to reward Trust members with a \$7 million premium return! Delivering this news brings great joy to all of us at the Trust! We know many of our members have been facing difficult financial challenges over the past few years, consistently being asked to do more with less. We also know how hard their employees work to assist and care for those in need. Their sacrifices set an inspiring example for our staff, who in turn do their best to assist injured workers while controlling claim costs. We are proud to deliver positive financial results, enabling us to reward our members.

This consistent premium return, along with superior loss control services, claims administration that reduces cost, online and face-to-face training for your staff, safety grants and many more added-value benefits makes the Trust the best value for your workers' compensation premium dollars. Our high retention rate is evidence that members understand that value, and appreciate that Trust profits are returned to members, not stockholders who have little to do with the business at hand.

We're happy to report the Trust once again continues to maintain its extremely strong financial position as Connecticut's fifth largest provider of workers' compensation overall and the state's largest provider to the healthcare and human services industry.

Thank you for being a Trust member!



# Trust Rates Decrease Effective January 1, 2020

More good news for Trust members! The Trust will be lowering rates in many class codes for renewal and new business policies effective 1/1/20. The overall average rate decrease is -3.2% with some codes seeing decreases as much as -7.8%. In addition to the premium returns mentioned in the lead article, these continued favorable loss results allow us to pass on even more savings to members. Working effectively with our members allows all of us to accomplish great things. Keep up the good work! We know we will!

## The Results are In: 2019 Member Survey



Recently the Trust conducted a survey to determine if its services are continuing to meet the ever changing needs of our members. A large number of members responded with high satisfaction scores for all departments surveyed.

Satisfaction with overall services led the way with 97% satisfied. Claim reporting indicated that 99% of members agreed that they are satisfied with the simplicity of the claim reporting process.

Courtesy and professionalism of our claims and loss control staff scored an average of 98% satisfaction rate. Many of our members commented with positive remarks such as “always helpful and informative”, “extremely responsive” and “they do a wonderful job”.

Under the topic of “Other Services”, our members strongly agreed that our Premium Return Program is of value to their organizations and that the Trust is a reliable, stable and effective insurance provider for them, both with a 97% favorable response.

While we are pleased with the overall results of the survey, rest assured that we are continuing to improve services and are in the process of following up on all constructive comments provided. Thank you for participating in the survey and letting us know how we can best meet your needs.

## Board of Directors

### David Tompkins Hands Over the Reins to Russell Schwartz



David Tompkins, retired Vice President of Program Services at Klingberg Family Centers recently fulfilled his three-year term as Board Chair. The board voted unanimously to name Russell Schwartz, Executive Director at West Hartford Health and Rehabilitation and Avon Health Center, as the new Chair. Russell had previously held the position of Vice-Chair for the last three years and has served on the Board of Directors since September 2014.

Pictured at left, Mr. Schwartz presents Mr. Tompkins with a plaque of appreciation for his outstanding communication, dedication and leadership to the board of directors during his term.



Trust TeleCare continues to propel forward with over 3100 calls having come in since September 2017. Feedback has been excellent and the results continue to show that 52% of the calls have resulted in self-care as the preferred method of treatment.

With Trust Telecare, injuries are reported as they occur via a 24 hour call center answered by trained nurses. The nurse interviews the injured worker and based on those responses, their evidence-based software may drive more questions. Once all the information has been processed, the nurse makes a recommendation for the most appropriate level of care based on these facts and circumstances given at the time of the call. This recommendation may include the

ability to self-care if it is deemed appropriate and agreed upon by all involved parties. Should the employee believe that a doctors’ visit is necessary, then the employee would certainly be directed to a care center within the Trust network. From a Trust perspective, no claim is looked upon any differently or prejudiced in any way if the employee and/or supervisor do not agree with the care recommendation offered by the TeleCare nurse. Always, the employee has every right to seek formal medical treatment without any consequences.

But, for those who do accept the self-care recommendation, there are many benefits including a reduction in cost of medical care, no need to leave the workplace, a recorded statement that the injury occurred and no need for an OSHA recordable event. These are compelling motivators for our members to consider.

If you are currently not utilizing Trust TeleCare for your organization, please contact your Senior Loss Control Consultant to get signed up. Or if you have any questions call Brian Downs at (203) 678-0103 or email at downs@wctrust.com.

### 20-Year Member: Thames Valley Council for Community Action, Inc.



Diane Ritucci recently visited with Deborah Monahan, Executive Director from Thames Valley Council for Community Action to acknowledge and celebrate the 20th Anniversary of membership in the Trust

Ms. Monahan was presented with a plaque of appreciation to commemorate the occasion.

### Welcome to the Newest Members of the Trust

- The Hartford Golf Club
- JMG In Home Care LLC
- KAIA Yoga Center LLC
- New Haven Jewish Community Council  
Housing Corporation
- Robin’s Nest Intergenerational Daycare, LLC
- Turning Leaf Agency Corporation
- Waveny LifeCare Network, Inc.



# FOCUS ON SAFETY: Winter Driving Tips for both Agency & Personal Vehicle Use

## Are Your Vehicles Ready for the Cold?

- ▶ Ensure that all cars are serviced.
- ▶ Check for recalls - go to <https://www.nhtsa.gov/recalls>
- ▶ Know the vehicle - Every vehicle handles differently especially when driving on wet, icy or snowy roads.
- ▶ Stock the Vehicle - Carry items to handle common winter related tasks -windshield cleaner, emergency supplies.
- ▶ Plan your travel and route - Check the weather, road conditions and traffic. Build in plenty of time.
- ▶ Check your Battery - When the temperature drops so does battery power.
- ▶ Check the headlights, brake lights, turn signals, emergency flashers and interior lights.
- ▶ If towing something, check the trailer brake lights and turn signals.
- ▶ Cooling System - Make sure it is working properly.
- ▶ Washer Reservoir - completely fill before the first snow hits.
- ▶ Windshield Wipers and Defrosters - check and replace as necessary.
- ▶ Floor Mats - improperly installed, they can interfere with the accelerator or brake pedal, increasing risk of a crash.
- ▶ Install snow tires in the fall. Inspect tires at least monthly including the spare tire. Colder air impacts tire inflation so ensure each tire is filled to the vehicle specifications.



## Driving In Winter Conditions

- ▶ Drive slowly. It's harder to control or stop your vehicle on a slick or snow-covered surface.
- ▶ Increase your following distance enough so that you have time to stop for vehicles ahead of you.
- ▶ Know whether your vehicle has an antilock brake system and learn how to use it properly. Antilock brake systems prevent your wheels from locking up during braking. If you have antilock brakes, apply firm, continuous pressure to the brake pedal. If you don't have antilock brakes, you may need to pump your brakes if you feel your wheels starting to lock up.

## Navigating Around Snow Plows

- ▶ Don't crowd a snow plow or travel beside it. Snow plows travel slowly, make wide turns, stop often, overlap lanes, and exit the road frequently.
- ▶ The road behind an active snow plow is safer to drive on. If you find yourself behind a snow plow, stay behind it or use caution when passing.
- ▶ When driving behind a snow plow, don't follow too closely. A snow plow operator's field-of-vision is limited; if you can't see the mirrors, the driver can't see you. Also, materials used to de-ice the road could hit your vehicle.
- ▶ Snow plows can throw up a cloud of snow that can reduce your visibility to zero in less time than you can react. Never drive into a snow cloud, as it can conceal vehicles or hazards.

## If you are stopped or stalled in wintery weather, follow these safety rules:

- ▶ Stay with your car and don't overexert yourself.
- ▶ Put bright markers on the antenna or windows and keep the interior dome light turned on.
- ▶ To avoid asphyxiation from carbon monoxide poisoning, don't run your car for long periods of time with the windows up or in an enclosed space. If you must run your vehicle, clear the exhaust pipe of any snow and run it only sporadically — just long enough to stay warm.

# OSHA CORNER

## Required Reporting to OSHA

Employers are required to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation or loss of an eye.

- ▶ A fatality must be reported within 8 hours
- ▶ An inpatient hospitalization (for more than observation), amputation or eye loss must be reported within 24 hours of the incident/injury.

## To make a report call the nearest OSHA office

Bridgeport Area Office (203) 579-5581

Hartford Area Office (860) 240-3155

OSHA 24-hour hotline (800) 321-6742

Be prepared to supply: Business name, names of employees affected, location and time of the incident, brief description of the incident, contact person and phone number. If a voice mail is left, it is the employer's responsibility to follow up to ensure OSHA received the message. Failure to report severe injuries and/or death could and has led to employers being cited.

## Posting 300A Forms

300A forms must be posted at each location/establishment for which an OSHA 300 log is maintained. These forms must be posted from February 1st through April 30th of each year and must be reviewed and signed off by the most senior member of the organization or the most senior person at the location.

## Electronic Reporting Reminder

March 22, 2020 is the deadline for electronically reporting the OSHA Form 300A data for calendar year 2019. Collection of the data will begin January 2, 2020. The collection of the 2019 year data and beyond will now include the collection of the establishments' Employer Identification Numbers (EIN). Remember not all locations/establishments need to report data to OSHA.

If you have any questions on OSHA requirements, the Trust's loss control staff is available to assist. Please contact your Senior Loss Control Consultant for guidance or [fronczek@wctrust.com](mailto:fronczek@wctrust.com) or (203) 678-0161 if you have any questions.



## Mandatory Sexual Harassment Training Requirements

Effective October 1, 2019 for CT Businesses With 50 Employees or More

All Employees - 2 hour training - in 2020 and then every 10 years

New Hires - 2 hour training within 6 months of hire

- Within 3 months, email the sexual harassment posting information with Sexual Harassment Policy in the subject line.

## The Legal Corner

Attorney John M. Letizia, Managing Partner  
Letizia, Ambrose & Falls, PC

# Recent Ruling Highlights Need for Consistency in Personnel Decisions and Some Good News for Employers

When an employee files a lawsuit against an employer alleging discrimination, an employer often faces a long and expensive road to a final resolution, even in those cases where there is seemingly little merit to the employee's claim. This is because the vehicle for seeking the early dismissal of the action -- a motion for summary judgment -- is usually filed months if not years after the lawsuit is commenced, once the parties have had an opportunity to discover information about the basis for the parties' claims and defenses. The motion is often difficult to win given the standard that Connecticut courts must apply in this context. However, a recent Connecticut Appellate Court decision offers some hope that summary judgment may be possible in the right circumstances.

### A. What is Summary Judgment and When is it Filed?

In Connecticut, after an employee files a lawsuit and the employer responds, the employer and the employee engage in discovery. This means that the parties are able to obtain information from each other that they believe will help them win. After discovery is over, and before the trial begins, the parties will have an opportunity to file a motion for summary judgment. The employer's motion for summary judgment will try to convince the court that, based on all of the undisputed facts that have been revealed in discovery, the employer should win the case, thereby making the trial unnecessary.

### B. Summary Judgment Denied When Key Facts Are In Dispute

In deciding a motion for summary judgment, the court will determine whether the parties dispute important facts in the case, and if they do, the motion will be denied so that a judge or a jury can decide those facts at trial. Employment discrimination claims often present classic cases of "he said/she said," which involve an assessment of the credibility of witnesses, often making it difficult for an employer to win a motion for summary judgment.

### C. Recent Connecticut Appellate Court Decision Grants Employer's Motion for Summary Judgment

A recent case, *Alvarez v. City of Middletown* may give employers some cause for optimism. In *Alvarez*, the Connecticut Appellate Court affirmed summary judgment for the employer, the City of Middletown, in an action brought by a former probationary police officer who alleged race and national origin discrimination arising out of the termination of his employment. The employer filed and won a motion for summary judgment. The employee appealed, claiming that the decision was wrong for a number of reasons. First, the employee claimed that there were other employees with similar performance deficits that were not fired. The Appellate Court rejected this argument, noting that the employee failed to produce any evidence to support this assertion. Second, the employee cited questions that he was asked during the hiring process -- whether he had any "baby mamas" or "side b \_ \_ \_ \_ \_ s" in Waterbury that would cause "drama" in the police department -- as evidence of a discriminatory intent. The Appellate Court concluded that the statements were "tasteless," but that they did not implicate the employee's race or national origin. Finally, the Court applied the "same actor inference" to uphold summary judgment, noting that the person who recommended hiring the employee also recommended his termination just 16 months later, creating an inference that he did not act with an intent to discriminate against the employee. Although Connecticut courts have used the "same actor inference" in other cases, the fact that the doctrine was used to uphold summary judgment is significant, but only time will tell if this case is simply an aberration.

### D. Employers Must Be Proactive

The fact that an employer may lose a motion for summary judgment does not mean that the employer will lose at trial.

## The Medical Corner

Mark Russi, M.D., MPH,  
Medical Director

# Annual Flu Update

A reminder of how to protect yourself for the upcoming flu season seems to have become ritual for the last newsletter of the year. So, at the risk of sounding like a broken record, I'd like to share a few key points.

First, the disease continues to kill substantial numbers of Americans. Depending upon how estimates are calculated, anywhere from thirty-five-thousand to sixty-thousand Americans died from flu last year. As always, the elderly and those with chronic health conditions were disproportionately affected. Common as it is, influenza should never be viewed as a non-life-threatening illness.



Second, while we never know what to expect, it is telling that the influenza season in the southern hemisphere was particularly severe in 2019. Australia experienced high case numbers and was impacted early in the southern season. The predominantly circulating strain was an H3N2 Influenza, which is generally associated both with more severe disease, and less adequate protection from vaccine. Whether we will see a similar outbreak in North America remains to be seen, but suffice to say the Australian experience is concerning.

And finally, there is nothing more important than vaccination to help you, your family and your coworkers avoid influenza this year. Even when the vaccine does not provide you 100% protection, it can help to reduce the severity of disease, and help you avoid disease complications.

Remember that side effects from getting influenza vaccination are generally mild and short lived. A common one is soreness at the site of injection, which generally lasts a few days. Occasionally, vaccine recipients will experience headache, muscle aches or low grade fever for a few days. It is not possible for the influenza vaccine to cause influenza. The virus used in flu shots is completely inactivated and not infectious. And as always, wash hands frequently, cover your cough, and don't come to work if you're sick.

If you would like to track U.S. influenza activity, the CDC has an excellent resource for this with maps and graphical representations for confirmed influenza infections as well as for influenza-like respiratory illness. Those materials can be accessed at <https://www.cdc.gov/flu/weekly/summary.htm>.

### Recent Ruling (continued from previous page)

However, the litigation process (and particularly a trial) is expensive and time-consuming, and the outcome is uncertain because it is placed in the hands of a judge or jury. Employers must do what they can to avoid litigation by having strong personnel policies that are applied consistently, and are proactive in the termination process, including consulting with counsel as necessary. If a lawsuit is filed, the employer should evaluate the merits of the employee's claim with counsel early on to determine whether summary judgment is a realistic possibility.

If you wish to discuss the recent case or any of the issues addressed in this article, please contact Attorney John M. Letizia at 203-787-7000 or [letizia@laflegal.com](mailto:letizia@laflegal.com).

The representations made in this article are the analysis of the law offices of Letizia, Ambrose & Falls, P.C. This article is provided for information purposes. You are encouraged to consult with the appropriate legal counsel prior to relying on this information or analysis.



# Upcoming Educational Programs

The following programs are designed to assist members in gaining knowledge of issues that surround and support the reduction of work related injuries and create a safe and healthy workplace. To register, or obtain detailed information, go to [www.wctrust.com](http://www.wctrust.com). Most courses offer Continuing Education Units (CEUs). Your attendance is encouraged.

**OSHA Recordkeeping: The Basics**

Thursday, December 12                      9:00 AM - 12:00 PM                      Members: FREE                      Value: \$100

**OSHA Recordkeeping: Intermediate**

Thursday, January 9                      9:00 AM - 12:00 PM                      Members: FREE                      Value: \$100

**National Safety Council Defensive Driving 4 Hour Course**

Wednesday, January 22                      8:30 AM - 1:00 PM                      Members: \$50 per person

**Partnering With The Trust**

Thursday, January 23                      9:00 AM - 12:30 PM                      Members: FREE                      Value: PRICELESS

**Safety Solutions - Mindfulness in the Workplace**

Thursday, February 6                      9:00 AM - 1:00 PM                      Members: FREE                      Value: \$100

**Safety Solutions - Safety Inspections**

Thursday, February 20                      9:00 AM - 12:00 PM                      Members: FREE                      Value: \$100

**Supervisor's Toolkit: Stepping Up to Supervisor**

Thursday, March 12                      9:00 AM - 12:30 PM                      Members: \$50 per person

**National Safety Council Defensive Driving 4 Hour Course**

Wednesday, March 18                      8:30 AM - 1:00 PM                      Members: \$50 per person



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