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KAFI WILFORD (2003-2010)

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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of JASMINE E. LOGAN, Respondent,
v.
NEW YORK CITY HEALTH & HOSPITAL CORP., Appellant,

WORKERS' COMPENSATION BOARD, Respondent.

May 12, 2016

Facts: Claimant, while working, slipped on a wet floor and reported the all and injury to the left knee to the self-insured employer. Around a year later, she filed a C-3 indicating that, as a result of the incident, she had multiple injuries. The self-employer objected to the claim for the sites other than the knee inasmuch as the claimant had only initially reported injuries to the left knee at the time of the incident. After litigation, the WCLJ found that the self-insured employer had not been given notice of the additional injury sites in accordance with WCL Section 18 and disallowed the claim for sites of injuries other than the left knee. The Board Panel reversed the WCLJ's finding and found that WCL Section 18 did not preclude the claim for additional injury sites. Upon Full Board review, the claimant's failure to comply with notice requirements of WCL Section 18 was excused and the disallowance of the claim for additional injuries was rescinded.

In the interim, based upon the Board Panel's ruling that WCL Section 18 did not bar the claim for additional injuries, at subsequent hearings, the WCLJ amended the claim to include those additional injuries. The self-insured employer again appealed and the Board Panel affirmed the WCLJ's decision. This appeal now ensued for the foregoing decision along with the full board's decision excusing claimant's failure to file timely notice.

Holding: *Affirmed.*

Discussion: WCL Section 18 provides in relevant parts that "written notice of an injury for which compensation is payable…shall be given to the employer within thirty days after the

accident causing the injury." This requirement may be excused upon certain grounds if the employer or its agents had knowledge of the accident. In this case although the self-insured employer had knowledge of the accident and claimant's left knee injury within the statutory 30-day period, it was not aware of the additional injuries until nearly a year later when she filed the C-3. The self-insured employer contended that the Court should construe the statutory phrase "had knowledge of the accident" to mean "had knowledge of the injury" and accordingly claimant's late notice for additional injuries is inexcusable. This interpretation by the self-insured employer was rejected. A plain language interpretation of WCL Section 18 suggests that the Legislature intended the Board to be able to excuse late notice when the employer or its agent had knowledge of the event alleged to have caused the injury. The Court concluded that the requirement of an employer's knowledge of the accident, for the purposes of WCL Section 18, is not a requirement of the employer's knowledge of each alleged injury.