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State of New York Supreme Court, Appellate Division
Third Judicial Department
In the Matter of the Claim of

JOZO VUJEVA, Appellant,

v.

DAIRY CONVEYOR CORP. et. al., Respondents,
WORKERS' COMPENSATION BOARD, Respondent.

April 24, 2025

Facts: The claimant sustained bilateral shoulder injuries while working as a mechanic. Ultimately the claim became ripe on the issue of permanency and both the treating physician and the carrier's consultant offered schedule loss of use opinions. After litigation the Law Judge credited the consultant's opinion, finding that the treating physician did not state whether a goniometer had been used nor did the doctor indicate whether the range of motion deficits had been measured three times as required by the 2018 Workers' Compensation Guidelines for Determining Impairment. The Board Panel affirmed the decision on appeal.

Holding: *Affirmed.*

Discussion: The Board's decision was based upon substantial evidence. Since questions of fact and credibility rest with the Board, the decision will not be disturbed.