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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Cynthia Pedro SALAS, Appellant,

v.

TOM CAT BAKERY, INC., et al, Respondents,
WORKERS' COMPENSATION BOARD

April 8, 2021

Facts: Case was established to the face and amended to include the head, neck, left shoulder, and left knee. Claimant then requested authorization for treatment and surgery for the right shoulder. Carrier denied authorization and WCLJ upheld the denial, finding that claimant had testified that he had not injured his right shoulder in this accident. On appeal, the Board affirmed the WCLJ's decision.

Holding: *Affirmed.*

Discussion: Based on claimant's testimony in claim that he did not injury the right shoulder in this accident, substantial evidence supported the Board's decision that authorization for treatment and surgery should be denied. Board also found that in the absence of a claim and corresponding proof of injury to the right shoulder, the medical proof of causal relationship did not have a proper factual basis.