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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Alexandra MINICHINO Respondent

v

AMAZON.COM DEDC LLC, Appellants

and

WORKERS' COMPENSATION BOARD, Respondent

April 21, 2022

Facts: The claimant was employed as a picker for the Appellant's fulfillment center. She filed a claim for an occupational/repetitive stress injury brought on by years of pulling, pushing and carrying. The law judge disallowed the claim based upon inconsistencies in the record and whether the injuries were due to occupational disease or accident. The Board ruled the claimant sustained an accidental injury to the neck. The carrier appealed that decision.

Holding: *Affirmed.*

Decision: The Court confirmed that the claimant may alter the theory upon which the claim is made, including changing it from an occupational disease to an accident. In addition, while the law judge found inconsistencies in the nature of the claim, the Board is the sole arbiter regarding the credibility of a witness and is not bound by the law judge's determinations.