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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of PAULLAN FLORES, Appellant,
v.
MILLENNIUM SERVICES, LLC et al., Respondents,
WORKERS' COMPENSATION BOARD, Respondent.

April 20, 2023

- Facts: This claim was established for an injury involving a scratch on the claimant's back. The claimant also pursued injuries to the left shoulder and bilateral knees along with causally related back surgery. Although the IME conceded the additional sites and the WCLJ amended the case to include the bilateral knees and shoulders, the Board Panel found the claimant's testimony regarding the mechanism of injury was not credible and disallowed the claim for the bilateral knees and left shoulder. The Board Panel also denied any awards in connection with the back surgery.
- Holding: *Affirmed.*
- Discussion: The Court emphasized that it is the claimant's burden to demonstrate causal relationship between the claimed injuries and the employment. In this case the medical opinions were based upon what the claimant reported as the mechanism of injury: which was that a large piece of concrete fell two or three stories, landing on his back and causing him to fall to his knees and strike his left shoulder. However, the employer presented lay testimony effectively contradicting what the claimant testified to. The Board's determination to discredit the claimant's testimony was based upon substantial evidence and therefore upheld.