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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of WILFREDO SOLER, Appellant,
v.
DONATO, INC., Respondent

WORKERS' COMPENSATION BOARD, Respondent.

April 27, 2023

Facts: Following a hearing, a WCLJ denied a request by the claimant's treating physician for a lumbar fusion and postoperative PT. The claimant did not appeal the decision. A month later, the doctor filed a request for the same surgery which was granted by an Order of the Chair. The carrier filed a request for further action to the Board and the Order of the Chair was rescinded. The claimant's attorney appealed the rescission of the Order which was denied by the Board Panel for being outside its scope of review.

Holding: *Affirmed.*

Discussion: Workers Compensation Law Section 23 does not allow for review of the Order of the Chair and the later order issuing the recession.