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Supreme Court, Appellate Division, Third Department, New York

In the Matter ROSE NUNEZ, Claimant  
v.  
ULSTER BOCES/ ARDEN HILLS HOSPITAL, et al, Respondent  
and  
Arch Insurance Company, Appellant  
and  
WORKERS' COMPENSATION BOARD, Respondent

Decided December 13, 2018

Facts: Claim was filed in July 2014. Arch filed a FROI accepting claim. The claim was established in November 2014 and medical testimony was directed. Arch stipulated to an average weekly wage and to awards prior to the medical testimony being taken. Arch paid indemnity and medical benefits from July 2014 to March 2016. AIG was placed on notice as the carrier for a general contractor in October 2016. AIG raised laches against Arch when Arch raised coverage. The Law Judge found that the doctrine of laches precluded Arch from raising coverage. Arch appealed decision and the Board affirmed. This appeal by Arch ensued.

Holding: Affirmed.

Discussion: Laches applies to workers' compensation cases when there has been an inexcusable delay in raising the defense of noncoverage together with actual injury or prejudice. The court found that there was substantial evidence that laches should apply to the claim. Arch's explanation that delay was caused by "complex" coverage issues without further elaboration. The Court determined that Arch did not establish excusable delay and the finding of prejudice against AIG was supported by substantial evidence.