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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of KEVIN REDDIEN, Respondent

v

JOSEPH DAVIS INC. et. al, Appellant

and

SPECIAL FUND FOR REOPENED CASES, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent.

February 11, 2016

Facts: In 2001, per stipulation the claimant was awarded benefits for a schedule loss of use to his left hand. The claimant also injured his back in the original accident. In 2011, the claimant sought treatment for his back and a claim was made for relief under Section 25-a. The Board denied relief having found the case was not truly previously closed. The carrier appaled.

Holding: Affirmed

Discussion: The Court confirmed the issue of a true closure is a factual determination for the Board and will be affirmed if based upon substantial evidence. In this case the claimant's doctors opined in 2000 and 2001 the claimant's back condition caused a permanent partial disability. The Court, in a footnote, stated the original stipulation made no reference to the back.