

**STEWART, GREENBLATT, MANNING & BAEZ**

ATTORNEYS AT LAW

6800 JERICHO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

DONALD R. STEWART (RET.)  
MADGE E. GREENBLATT  
ROBERT W. MANNING  
RICARDO A. BAEZ  
DAVID J. GOLDSMITH  
PETER MICHAEL DeCURTIS  
LAURETTA L. CONNORS  
JOHN K. HAMBERGER

LISA LEVINE  
ANDREA L. De SALVIO  
KRISTY L. BEHR  
LUKE R. TARANTINO  
THOMAS A. LUMPKIN  
JONATHAN SO

KAFI WILFORD (2003-2010)  
MICHAEL H. RUINA (1992-2016)

RAYMOND J. SULLIVAN  
MONICA M. O'BRIEN  
MARY ELLEN O'CONNOR  
OF COUNSEL

SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT, NEW YORK

Byoung Park, Appellant

v.

Corizon Health Inc, et al, Respondent

and

Workers' Compensation Board, Respondent

Decided February 15, 2018

Facts: The claimant was working as a pharmacist at a jail and was exposed to pepper spray while a guard was trying to subdue an inmate. The claimant claimed, among other things, a causally related exposure of fibromyalgia. The Law Judge initially established the case for psychiatric conditions and the parties litigated the causal relationship of the fibromyalgia. Afterwards, the Law Judge amended the claim to include the condition but, on appeal, the Board Panel reversed. This appeal ensued.

Holding: Affirmed.

Discussion: This is a factual issue that is within the province of the Board to determine. As long as its determination is based on substantial evidence, it will not be disturbed. Here, the Board was within its rights to credit the testimony of one doctor over the others, especially in light of the undisputed testimony that the cause of fibromyalgia is unknown and its symptoms are fleeting and vary from one individual to the other and the other doctors' opinion was equivocal.