

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

Matter of Abdoulaye Seck, Appellant

v.

Quick Track c/o Velo Corporation of America, et al, Respondent

and

Workers' Compensation Board, Respondent

Decided February 8, 2018

Facts: The claimant had a compensable injury and was found to have a permanent partial disability in 1997. In 1998, the claimant returned to work and awards were suspended. However, in 2007 the claimant stopped working again due to the established injury and requested reinstatement of benefits and a finding that he was permanently totally disabled. The carrier argued that Workers' Compensation Law Section 123 barred the claim for benefits as it had been more than 18 years since the date of accident and 8 years since the last payment of compensation. The Board ultimately agreed. The claimant did not appeal to the Third Department from that decision, but did file for Full Board Review, which was denied. The claimant appealed from that decision.

Holding: Affirmed.

Discussion: The issue of the applicability of Workers' Compensation Law Section 123 was not before the Court as the claimant did not appeal from the Board Panel Decision. Instead, the Court's review was limited to the question of whether the Board's decision not to review the Board Panel Decision was arbitrary and capricious or otherwise constituted an abuse of its discretion, which it did not.