

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 Zdzislaw Usewicz, Appellant
v.
Nozbestos Construction, Respondent
and
Workers' Compensation Board, Respondent

Decided February 15, 2018

Facts: The claimant had a separate Article 8A case for his work as an asbestos handler at the WTC site. His employment with his last employer was terminated on July 28, 2012. He then filed this claim for occupational lead exposure, which was also established. The two claims then traveled together and a decision was made that his disability was related to his Article 8A claim rather than the lead exposure claim. The Board affirmed and this appeal ensued.

Holding: Affirmed.

Discussion: The claimant testified that he was told not to return to work in July 2012 because his excessive coughing prevented him from wearing a mask. There was also an incident where the claimant accidentally cut some wires that caused his tools to burn. While there was some evidence to suggest a causal relationship between his lead exposure case and the lost time, the Court found that the Board's determination that the lost time was not causally related to this claim was sufficiently supported by substantial evidence to be affirmed.