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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Miroslaw CHROSTOWSKI, Appellant,
v.
PINNACLE ENVIRONMENTAL, Respondent,
WORKERS' COMPENSATION BOARD, Respondent.

February 18, 2021

Facts: On 1/31/18 the claimant filed a claim which was eventually established for repetitive stress to left shoulder, both wrists, and both knees. The date of disablement was established as 3/17/09 based on a medical report from a provider that was treating the claimant for respiratory conditions arising from a separate workers' compensation claim, finding that this was the date the claimant knew or should have know that his condition was work related and disallowed the claim as being time barred under Section 28. The Board affirmed and this appeal ensues.

Holding: *Reversed.*

Discussion: While the 3/17/09 report contained a positive Tinsel test the diagnosis of carpal tunnel syndrome is indicated in subsequent reports. This report also makes no mention of the shoulder or knees. The other medical records the Court reviewed do not reference the etiology of the carpal tunnel diagnosis.

The first clear reference to these sites being causally related to the claimant's work was not until a report from January 2018. Accordingly, there was not substantial evidence to support the Board's finding and must be reversed.