

STEWART, GREENBLATT, MANNING & BAEZ

MADGE E. GREENBLATT (RET.)
ROBERT W. MANNING
RICARDO A. BAEZ
DAVID J. GOLDSMITH
PETER MICHAEL DeCURTIS
LAURETTA L. CONNORS
LISA LEVINE
ANDREA L. De SALVIO
KRISTY L. BEHR
RAYMOND J. SULLIVAN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
DIANE P. WHITFIELD

ATTORNEYS AT LAW
6800 JERICHO TURNPIKE
SUITE 100W
SYOSSET, NY 11791
516-433-6677
FAX 516-433-4342

DONALD R. STEWART (1949-2021)
KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)
JAMES MURPHY
OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

Matter of ALBERTO GOMEZ, Appellant
v.
BOARD OF MANAGERS OF CIPRIANI, Respondent
and
WORKERS' COMPENSATION BOARD, Respondent
February 16, 2023

Facts: The claimant, a New Jersey resident, submitted bills for payment related to treatment he received in New Jersey of his New York claim. The carrier object to the bills having maintained the doctor, although licensed in New York is not authorized under the NY WCL. The Board affirmed the judge's denial for payment of those bills because the doctor, although licensed in New York is not authorized to treat by the NY WCB.

Holding: *Reversed and Remitted*

Discussion: Under 12NYCRR 323.1, a New York licensed physician is permitted to seek authorization from the board to provided medical services under the WCL and must obtain said authorization prior to treating injured workers under the law. The Court held that to require physicians who are also licensed in another state that provide treatment in that state should not be required to seek authorization in New York simply because the doctor also happens to be licensed in New York. Such a requirement would be contrary to the "economic and humanitarian object[ives]" of the law and place an undue burden on such claimants. The Court went on to state that the Board's interpretation of 12NYCRR 323.1 is irrational and unreasonable and as such would not accord it any deference.