

**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  
ASHA V. EDWARDS  
ANDREA L. De SALVIO  
KRISTY L. BEHR  
DAVID S. FOODEN  
LUKE R. TARANTINO  
THOMAS A. LUMPKIN

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

RAYMOND J. SULLIVAN  
MONICA M. O'BRIEN

OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

In the Matter of DOUGLAS HYATT , Respondent

v.

HOLLISWOOD CARE CENTER, Appellant

WORKERS' COMPENSATION BOARD, Respondent

July 14, 2016

Facts: The claimant alleged injuries to the neck and back. The claim was controverted and after litigation, the case was established and benefits awarded. The Board affirmed the Judge's decision. The employer appealed.

Holding: Affirmed

Discussion: The Court held that the issue of whether an accident is compensable is a question of fact to be resolved by the Board and its determination will not be disturbed when supported by substantial evidence. The Court reviewed the claimant's testimony in this matter as well as the testimony of the claimant's doctor. Despite the fact there was some question regarding the date of accident as well as whether the claimant had treated for prior back pain, the Court noted that the Judge decided to establish the case and the Board Panel declined to disturb the Judge's assessment on those issues. The Court deferred to the Board's resolution of witness credibility issues and found substantial evidence supported the Board's determination.