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SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT, NEW YORK

Noel Wallen, Appellant
v.
Software Communications Systems, Respondent

Decided January 18, 2018

Facts: The claimant appealed a finding denying his claim that his injury did not arise out of and in the course of employment. As the sole shareholder of Software Communications Systems (RCS) he alleged that he suffered a stroke during a conference with the Division of Human Rights regarding a discrimination complaint. He alleged that he was in a business meeting. While initially established, upon obtaining information through a FOIL request, it was determined the meeting dealt with his complaint against a former employer. The decision was rescinded and the claim disallowed.

Holding: Affirmed.

Discussion: The Court noted that the claimant presented inconsistent testimony regarding his business activities both before and after the meeting and this presented an issue of credibility for the Board to resolve. The Court also confirmed that the claimant presented insufficient evidence of causal relationship between his employment and the injury.