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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of CELESTE MARABLE-GREENE, Appellant,
v.
ALL TRANSIT, Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

January 7, 2021

Facts: This concerns an established claim for right lower extremity deep vein thrombosis where the issue of further causally related disability arose. After medical testimony, the Law Judge found no further causally related disability. The claimant appealed to the Board Panel alleging new evidence, but the Board Panel declined review.

Holding: Affirmed.

Discussion: The argument alleging new evidence is without merit in that the claimant failed to timely introduce the evidence into the record or provide an explanation for the delay. Additionally, while not necessarily argued by the claimant on appeal, the Board has the discretion to assess witness credibility and found the consultant's testimony on the issue of degree of disability more persuasive.