

STEWART, GREENBLATT, MANNING & BAEZ

ATTORNEYS AT LAW

6800 JERICHO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

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

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

In the Matter of the Claim of LEYDA MOLINA, Respondent,

v.

DELTA AIRLINES INC., Appellants,

WORKERS' COMPENSATION BOARD, Respondent.

January 13, 2022

Facts: The claimant, a flight attendant, developed respiratory problems after she began wearing the employer provided uniform. The claimant originally did not know the cause of her health problems and continued to wear the uniform. She ultimately found a specialist familiar with the condition who diagnosed her as having an allergic reaction to the uniform. She filed this claim and it was controverted. The employer's independent medical examiner opined that the uniform was not the cause of the claimant's issues and litigation ensued. The Law Judge hearing the case disallowed the claim but upon appeal by the claimant, the Board Panel reversed and established the claim for an occupational disease.

Holding: *Affirmed.*

Discussion: To establish an occupational disease claim a claimant must show a link between the injury and a distinctive feature of his employment which here was the claimant's uniform. The decision to categorize an injury as an occupational disease is a factual issue left to the discretion of the Board. Here, that decision is supported by substantial evidence and must therefore be affirmed.