

**STEWART, GREENBLATT, MANNING & BAEZ**

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

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

In the Matter of the Claim of Daniel CADME, Claimant  
v  
FOJP SERVICE CORP., Appellants  
and  
WORKERS' COMPENSATION BOARD, Respondent  
Decided July 22, 2021

Facts: The claimant was employed as a food service worker in a hospital. While walking towards the loading dock entrance to the hospital before starting his shift, he was struck by a motor vehicle. The case was controverted on the grounds that the claimant was not in the course of employment at the time of the accident. The claimant parked his car on a public street, Route 9W. While crossing the street he was struck by a large SUV. The employer confirmed that the area where he parked was where the other food service workers typically parked. The loading dock, which is frequented by food trucks and other "big trucks" is the generally area used by the food service workers to enter the hospital rather than the public entrance. The judge found the claim compensable and the Board Panel affirmed.

Holding: *Affirmed.*

Discussion: The Court confirmed that the Board Panel could reasonably determine that a special hazard existed for the claimant that did not exist for the public. This included the lack of availability of parking on the same side of the street as the hospital requiring the claimant to cross on the opposite side of a dangerous public roadway and there being no crosswalk to access the loading dock which would be used by the food service workers and not the public.