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In the Matter of SANDRA ANTHONY, Claimant

v.

AB HILL ENTERPRISES, LLC, Appellant

and

WORKERS' COMPENSATION BOARD, Respondent

June 9, 2022

Facts: The alleged employer appealed a finding that the claimant was its employee at the time of the accident. The claimant was a construction worker who sustained an injury to her wrist. The claimant filed a claim naming an entity as her employer. That entity was uninsured, and a Judge found that the general contractor on the construction project was responsible for the claim. A penalty was imposed against the entity listed on the claimant's claim form for not having Workers' Compensation insurance at the time of the accident.

Holding: *Affirmed.*

Discussion: The Appellate Division discussed the construction industry Fair Play Act and noted that it created a statutory presumption that any person performing services for a contractor shall be classified as an employee unless that person has demonstrated to be an independent contractor or a separate business entity. The Court held that there was

substantial evidence to find that the alleged employer was a contractor required to maintain Workers' Compensation insurance. The Court also held that the alleged employer did not allege that the claimant was an independent contractor or maintained her own separate business entity to rebut the statutory presumption of an employer/employee relationship so that the Board's decision on that issue would not be disturbed.

*Stewart, Greenblatt, Manning & Báez*