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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of SUSAN SCHMERLER, Appellant,
v.
LONGWOOD SCHOOL DISTRICT et al., Respondents.
and
Workers' Compensation Board, Respondent

Decided July 26, 2018

Facts: The claimant was working as a school security guard and sustained injuries as a result of restraining a special needs student. The case was established for injuries to the neck, back and both hands. Subsequent to the establishment of the claim, the claimant sought to amend the claim to include bilateral hip and knee injuries. The Workers' Compensation Law Judge determined that the claimant failed to produce sufficient evidence to substantiate causal relationship for the additional claims and disallowed the amendment of the claim. The Board Panel affirmed and the Full Board denied Reconsideration/Full Board Review. This appeal ensued.

Holding: *Affirmed.*

Discussion: The Court reiterated the well-known principle that the Board is empowered to determine factual issues of causal relationship and the Board's determination will not be disturbed when supported by substantial evidence. Additionally, the Court noted that it is within the province of the Workers' Compensation Board to resolve conflicts in medical opinions. The Court determined that the Board's reliance on the IME consultant's opinion that there was no causal relationship was supported by substantial evidence.

This is an example of an appeal that should not have been prosecuted to the Appellate Division since the findings of the Board involved interpretation of issues of causal relationship based upon a difference in medical opinions which were supported by substantial evidence.

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