

STEWART, GREENBLATT, MANNING & BAEZ

ATTORNEYS AT LAW

6800 JERICO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

DONALD R. STEWART (RET.)
MADGE E. GREENBLATT
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
DAVID S. FOODEN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
JILLIAN A. SMITH
JONATHAN SO

KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)

RAYMOND J. SULLIVAN
MONICA M. O'BRIEN
MARY ELLEN O'CONNOR
OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

Matter of LIDIA BURGOS, Appellant

v

CITYWIDE CENTRAL INSURANCE PROGRAM, Respondent

and

WORKERS' COMPENSATION BOARD

Decided March 30, 2017

Facts: The claimant sustained an injury to the back and was found by the Law Judge to have an 85% loss of wage earning capacity. The claimant appealed arguing that she had sustained a total disability and the Board Panel modified the decision to the extent that it changed the area of injury from thoracic to lumbar spine but otherwise Affirmed. The claimant now appeals.

Holding: *Affirmed.*

Discussion: The decision is based upon substantial evidence and will not be disturbed. Deference is given to the Board in assessing credibility as well as the evidence of record. Significantly, while the Board found that the claimant had an exertional ability of "less than sedentary work" the Court found that this did not equate to a finding of a permanent total disability.