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Supreme Court, Appellate Division, Third Department, New York

Matter of LAURA DANIELS, Appellant  
v  
LONG ISLAND D.D.S.O., Respondent  
and  
WORKERS' COMPENSATION BOARD

Decided March 30, 2017

Facts: Claimant was struck by a patient causing injuries to her neck and left shoulder. The parties were directed to depose the doctors on the question of permanency and the case was continued. At the next hearing, which was taken one hour earlier than the scheduled time, the claimant's attorney requested an extension to take the testimony of the claimant's doctor. The Law Judge denied the motion and found a schedule loss of use to the shoulder and no further causally related disability regarding the neck. The Board Panel Affirmed. The claimant now appeals.

Holding: *Affirmed.*

Discussion: The claimant's sole contention is that she was denied the right to be present at the hearing and provide relevant testimony. The claimant's attorney was there to represent her interests and did not oppose the fact that the case was taken early. In any case, the claimant's testimony would have only been relevant on the issue of loss of wage earning capacity, which was irrelevant in this case as the claimant was found to have a schedule loss of use in the absence of any medical evidence in support of the claim for classification.

*Stewart, Greenblatt, Manning & Báez*