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Supreme Court, Appellate Division, Third Department, New York

Matter of MARK J. LIEBLA, Appellant

v

GRO MAX LLC, Respondent

and

WORKERS' COMPENSATION BOARD

Decided March 30, 2017

Facts: Claimant sustained two separate compensable back injuries with two different employers. The first injury was sustained while he was employed in Connecticut and he received a lump sum payment in that case. The employer in the second claim for the injury sustained in New York sought to have the claimant's workers' compensation benefits apportioned. The Law Judge ruled that the benefits should be apportioned 50/50. The Board Panel Affirmed. The claimant now appeals.

Holding: *Affirmed.*

Discussion: Apportionment of a workers' compensation award is a factual issue left to the Board to determine and will be upheld when, as here, it is supported by substantial evidence.