

STEWART, GREENBLATT, MANNING & BAEZ

ATTORNEYS AT LAW

6800 JERICHO 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
LUKE R. TARANTINO
THOMAS A. LUMPKIN
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 Ana Elsa Deleon, Claimant

v.

Frederick Elghanayan, Appellant

Workers' Compensation Board, Respondent

Decided March 22, 2018

Facts: Claimant worked as a housekeeper in the residences of an uninsured employer. Claimant worked for the employer for years, primarily in Manhattan, but also in the Hamptons to help with the employer's summer parties. Claimant stayed overnight at the employer's Hampton residence and fell down the stairs while going to the bathroom in the early morning. The Board established the claim and the employer appealed, arguing the claimant's injuries did not arise out of and in the course of employment. The Board Panel affirmed and the employer appealed.

Holding: Affirmed.

Discussion: The Court found substantial evidence to find the accident arose out of and in the course of employment. Over the years of employment, the claimant customarily stayed overnight at the Hamptons residence when she worked there on the weekends. Claimant arrived the night before a scheduled soiree, was picked up from the train station by her employer and was expected to be available as needed. A bathroom break following an extended period of employment did not interrupt employment in these circumstances.