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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Steven MORALES, Appellant,  
v.  
John LOPEZ, Respondent,

WORKERS' COMPENSATION BOARD, Respondent.

March 11, 2021

**Facts:** The Law Judge disallowed the claim finding the claimant's testimony that he was injured on the job to be incredible as that history directly contradicted the history, which was provided by the claimant, in the initial hospital record. The claimant appealed to the Board Panel and sought to introduce an affidavit from an alleged co-worker as evidence of the compensability of the claim. However, the Board refused to entertain it and affirmed the disallowance. The claimant appealed.

**Holding:** *Affirmed.*

**Discussion:** The Board was well within its discretion to refuse to consider the affidavit. The Law Judge made numerous references to the inconsistent histories and the claimant made no effort to correct this or object to the history given in the initial hospital records. There was substantial evidence to support the Board's credibility determination and it should not be reversed on appeal.