

STEWART, GREENBLATT, MANNING & BAEZ

MADGE E. GREENBLATT (RET.)
ROBERT W. MANNING
RICARDO A. BAEZ
DAVID J. GOLDSMITH
PETER MICHAEL DeCURTIS
LAURETTA L. CONNORS
LISA LEVINE
ANDREA L. De SALVIO
KRISTY L. BEHR
RAYMOND J. SULLIVAN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
DIANE P. WHITFIELD

ATTORNEYS AT LAW
6800 JERICHO TURNPIKE
SUITE 100W
SYOSSET, NY 11791
516-433-6677
FAX 516-433-4342

DONALD R. STEWART (1949-2021)
KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)
JAMES MURPHY
OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Elizabeth WILBUR, Respondent,
v.
HAMISTER GROUP, LLC et al., Appelants,

WORKERS' COMPENSATION BOARD, Respondent.

March 30, 2023

Facts: The claimant was classified with a permanent partial disability and found to have 70% loss of wage-earning capacity. Approximately 9 months after the claimant was classified the employer offered the claimant a light duty position, which she rejected. The carrier requested that the claimant's benefits be suspended, but the Law Judge declined to do so, as the claimant was not required to prove that she remained attached to the labor market under WCL §15-3(w). The Board Panel affirmed this decision, and this appeal ensues.

Holding: *Affirmed.*

Discussion: At the time of the stipulation finding the claimant to have a permanent disability, there was no finding that the claimant had removed herself from the labor market. Accordingly, there was no requirement that she prove her ongoing attachment to the labor market.