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Supreme Court, Appellate Division, Third Department, New York

Matter of MARIA MISQUITTA, Appellant

v

GETTY PETROLEUM, Respondent

and

SPECIAL FUND FOR REOPENED CASES, Appellant

and

WORKERS' COMPENSATION BOARD

Decided May 4, 2017

Facts: The decedent sustained a myocardial infarction and was classified permanently totally disabled in an underlying claim for workers' compensation benefits. The Special Fund for Reopened Cases assumed liability pursuant to WCL §25-a. After decedent's death in 2014 due to coronary artery disease and the decedent's wife filed a claim for death benefits. The Special Fund contended that no new claims to transfer liability to it can be submitted after January 1, 2014 under the 2013 amendments. The WCLJ found that Special Fund had assumed liability on the underlying case and thus remains liable for the death claim. The Board affirmed, and Special Fund filed this appeal.

Holding: *Affirmed*

Discussion: "Once Section 25-a (1) has been triggered, the insurance carrier has no further interest in payment of the claim" (citation omitted). While the Special Fund was correct in its contention that a claim for death benefits is a separate and distinct legal proceeding and is not equated with the beneficiary's original disability claim, liability for the underlying claim had already been transferred, and under this circumstance, claimant need not obtain another transfer of liability to the Special Fund upon decedent's death.