

**STEWART, GREENBLATT, MANNING & BAEZ**

**ATTORNEYS AT LAW**

MADGE E. GREENBLATT (RET.)  
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  
RAYMOND J. SULLIVAN  
LUKE R. TARANTINO  
THOMAS A. LUMPKIN  
DIANE P. WHITFIELD

**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 Donato NAPPI, Appellant

v

VERIZON NEW YORK, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

May 12, 2022

**Facts:** The Claimant alleged an injury to his right shoulder on October 26, 2018. In his C-3 he confirmed a prior injury to that shoulder but did not indicate if he received treatment for same nor did he identify the names of any health care providers for that prior injury. The carrier raised section 114-a based upon the failure to disclose prior treatment to the shoulder. Although the law judge found no violation of Section 114-a, the Board modified that decision and found a violation of the law. It provided both a mandatory penalty, rescinding awards for a period of time, and a discretionary penalty- a permanent disqualification from receiving wage benefits in this claim.

**Holding:** *Affirmed.*

**Decision:** The Court confirmed that the issue of a 114-a violation remains within the province of the Board. Although the claimant confirmed a prior injury to the shoulder, the claimant consistently and affirmatively failed to disclose that he was receiving treatment for the right shoulder since 2016. Although some of the claimant's treating physicians were aware of the prior injury and treatment, the claimant failed to disclose that information on the intake forms that he complete for the independent medical examinations. It was not until after the carrier raised the issue of fraud that the claimant advised the carrier's doctor about his prior treatment and diagnosis.