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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

CHRIS FORTE, Appellant,

v.

ERNEST MUCCINI, Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

March 16, 2020

Facts: This is an established claim for an occupational disease to the back where the claimant has been classified. A claim was made for consequential arachnoiditis, which is a pain disorder caused by the nerves of the spinal cord. In reviewing records to comment on the consequential arachnoiditis claim, the carrier's consultant opined that the claimant should be weaned from opioids. The carrier requested that the Law Judge direct the claimant be weaned off the opioids and the Law Judge denied the request. The carrier appealed and the Board modified the Law Judge's decision to find that the claimant should be directed to follow the weaning protocol recommended by the carrier's consultant in accordance with the Non-Acute Pain Medical Treatment Guidelines. The claimant appealed.

Holding: Affirmed.

Discussion: The Board has the authority to make decisions when presented with conflicting medical opinions and here found that the opinion of the carrier's consultant was more credible on the issue of weaning. The Board's decision rests on substantial evidence in that the consultant's opinion was in accordance with the guidelines and thus will not be disturbed.