

**STEWART, GREENBLATT, MANNING & BAEZ**

**ATTORNEYS AT LAW**  
**6800 JERICHO TURNPIKE**

**SUITE 100W**  
**SYOSSET, NY 11791**

**516-433-6677**  
**FAX 516-433-4342**

**KAFI WILFORD (2003-2010)**  
**MICHAEL H. RUINA (1992-2016)**

**RAYMOND J. SULLIVAN**  
**MONICA M. O'BRIEN**  
**MARY ELLEN O'CONNOR**  
**JAMES MURPHY**  
**OF COUNSEL**

**DONALD R. STEWART (RET.)**  
**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**  
**LUKE R. TARANTINO**  
**THOMAS A. LUMPKIN**  
**JONATHAN SO**

Supreme Court, Appellate Division, Third Department, New York

NIEGEL ALDEA, Appellant,  
v.

DAMARI INSTALLATIONS CORPORATION et al., Respondents,  
and  
WORKERS' COMPENSATION BOARD, Respondent

May 30, 2019

**Facts:** The claimant filed a claim alleging that while working as a construction worker he injured his back while lifting planks of scaffolding. The claim was controverted on issues of accident arising out of and in the course of employment and timely notice to the employer. The WCLJ found sufficient medical evidence to support the claim, proper notice to the employer and the claim was established as a compensable injury. On appeal, the Board Panel reversed the WCLJ and disallowed the claim, finding insufficient credible evidence of an accident and of timely notice and insufficient medical evidence. The claimant appealed.

**Holding:** *Affirmed.*

**Discussion:** Board Panel did not accept the claimant's testimony as credible with regard to how the alleged injury occurred, when and to whom notice was given and the delay in reporting to medical providers that his complaints were as a result of a work-related injury. Board and, not WCLJ, is sole arbiter of witness credibility and the Court gives deference to the Board's determination of credibility if the decision is supported by substantial evidence.