

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

In the Matter of the Claim of Nicholas ROSSL, Appellant,

v

ALBERT PEARLMAN INC. et al., Respondents

and

Workers' Compensation Board, Respondent

November 12, 2020

Facts: The claimant filed a claim for workers' compensation benefits as the result of a myocardial infarction. Claimant sought medical treatment at the hospital that same evening and remained in the hospital for a few days, during which time he underwent a stent procedure. He did not return to his job thereafter. The employer and its workers' compensation carrier controverted the claim, asserting that it was not compensable and was not causally related to his work. The Board found, among other things, that claimant had failed to establish that his myocardial infarction was causally related to his work activities and disallowed the claim.

Holding: *Affirmed.*

Discussion: The Court noted that whether a compensable accident has occurred is a question of fact to be resolved by the Board and its determination will not be disturbed when supported by substantial evidence. It is the claimant who must establish, by competent medical evidence, the existence of a causal connection between his or

her injury and his or her employment. Such evidence must signify a probability of the underlying cause that is supported by a rational basis and not be based upon a general expression of possibility. The Court found that the Board's decision contained substantial and adequate opinion evidence to support its finding.

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