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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of ANTHONY FREYTA, Claimant,
v.

CALVIN MAINTENANCE INC. et. al., Appellants,
WORKERS' COMPENSATION BOARD, Respondent.

October 12, 2023

Facts: Claimant, a laborer, filed an occupational disease claim for bilateral knee pain. The carrier controverted the case arguing it was a pre-existing condition. The claim was established, and the decision was affirmed by the Board Panel upon appeal. This appeal by the carrier ensued.

Holding: *Affirmed.*

Discussion: If it can be shown that a pre-existing condition is dormant until exacerbated by one's employment duties, the claim is compensable. When a distinctive feature of a claimant's employment duties aggravates an asymptomatic pre-existing condition to the point that it becomes disabling, an occupational disease claim will be established. The Court noted that the pertinent question is not whether the claimant's pre-existing condition caused him pain, but rather whether the claimant's job duties acted upon his pre-existing condition so as to create a disability that did not exist before.

Here, there was substantial evidence in the record here to support this finding.