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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

PAULA MAURO, Appellant

v

AMERICAN RED CROSS et al, Respondents

and

WORKERS' COMPENSATION BOARD

Decided October 3, 2019

Facts: The claimant was a Volunteer Community Ambassador for a nonprofit charitable organization. She was hit in the nose by a hand cart and filed a workers' compensation claim. The WCLJ denied the claim based on a lack of employer-employee relationship. The Board Panel affirmed.

Holding: Affirmed.

Discussion: Employer-employee relationship is a factual issue to be decided by the Board. Relevant factors include the right to control the work, method of payment. Right to discharge and the relative nature of the work. At the time of the accident, the claimant was employed full time by a restoration company. The company encouraged volunteerism. The claimant was paid her salary by the employer during any events for the charity. Although the claimant reported that there was some direction and control over the volunteer activities, the record clearly reflected that the claimant was a volunteer. As such, no employer-employee relationship existed and the claim was properly dismissed.