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Supreme Court, Appellate Division, Third Department, New York

Matter of LEW H. LEVIN, Claimant-Appellant

v

RENSSELAER POLYTECHNIC INSTITUTE et al., Respondents,

and

WORKERS' COMPENSATION BOARD, Respondent

Decided September 6, 2018

**Facts:** The case was established for an injury to the left shoulder after a slip and fall on ice on January 21, 2015. The claimant subsequently sought to amend the claim to include the right shoulder, and testified that he had put his right arm out to break his fall, before falling over onto the left side. The initial medical records had stated the claimant fell directly onto his left side, and do not reflect right shoulder pain until March of 2015. The carrier's independent medical examiner had found a causally related right shoulder injury, based on the information obtained about the accident from the claimant. The Board disallowed the right shoulder. This appeal ensued.

**Holding:** *Affirmed.*

**Discussion:** The Court stated that it is within the Board's province to assess the credibility of the testimony and medical evidence presented, and that the medical opinion as to a causally-related injury must be supported by a rational basis. Although there was testimony and evidence in the record that could support a right shoulder injury causally related to the fall, the Board was free to reject any portion of the medical testimony presented. The Board's determination that the claimant failed to meet his burden of establishing that the right shoulder injury was causally related to the fall was supported by substantial evidence.