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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

MICHELLE FOX, Claimant

v

ALTMAR-PARISH-WILLIAMSTOWN CENTRAL SCHOOL DISTRICT et al., Appellants,

and

WORKERS' COMPENSATION BOARD

Decided September 26, 2019

Facts: The claimant fell while working as a school bus monitor. The claim was initially established for injuries to the neck and aggravation of the left hip. The claimant then sought to amend the claim to include an injury to the head with concussion. The WCLJ found that the claimant met the burden of establishing a causally related injury and amended the claim. The Board Panel affirmed the WCLJ decision.

Holding: Reversed.

Discussion: Medical proof offered to demonstrate a causal relationship must signify a probability as to the underlying cause of the claimant's injury which is supported by a rational basis. In this case, deposition testimony was taken from a supervising physician. The physician conceded that she did not review any of the claimant's prior medical records, which include a history of dizziness and other conditions that could mimic post-concussion symptoms. The Court found that the physician's opinions were then merely speculative and the Board's decision was not supported by substantial evidence.