

**STEWART, GREENBLATT, MANNING & BAEZ**

**ATTORNEYS AT LAW**

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

**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**

Supreme Court, Appellate Division, Third Department, New York

In the Matter of

OMARI KARIAULI, Claimant

v

MOSHE WEIDER, Appellant

and

WORKERS' COMPENSATION BOARD

Decided September 26, 2019

**Facts:** The claimant fell off a ladder while performing renovations work for Moshe Weider, the purported uninsured employer. The employer and his witnesses failed to appear for their scheduled testimony. The case was established for multiple injuries and the claimant was subsequently awarded schedule loss of use awards. In July, 2017, Mr. Weider was issued a demand for payment. The employer then hired counsel and the Board rejected their application for review and reopening.

**Holding:** Reversed.

**Discussion:** The Board retains jurisdiction to grant an application for rehearing or reopening made by any party in interest, if, as relevant here, it would be in the interest of justice. There is no statutorily prescribed time period in which an applicant may seek rehearing or reopening of a claim. The Court found that there was an abuse of discretion. On the date that Mr. Weidner was scheduled to testify, the hearing was to begin at 9:30 and he arrived at the Board at 9:45. No attempt was made by Court personnel to notify the Judge of the witness's arrival. The Court also took into consideration the alleged uninsured employer's pro se status in granting the reopening.