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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

GUILLERMO OLAYA, Claimant  
v  
UNITED PARCEL SERVICE INC., Appellant  
and  
WORKERS' COMPENSATION BOARD

Decided October 3, 2019

**Facts:** The claimant sustained a compensable back injury in March, 2009. He had a second work-related accident in September 2010 which was established for the left leg. In connection with the second claim, he was awarded a 26.25% schedule loss of use award. The claimant had a third accident in July 2012 which was established for an injury to the right knee. Issue became joined on whether the claimant was at maximum medical improvement, schedule loss of use vs. classification and causally related consequential injuries. The WCLJ amended the claim to include consequential injuries to the back and left leg but found there was no worsened disability and that the claim would be amenable to a schedule loss of use. The Board Panel affirmed.

**Holding:** Affirmed.

**Discussion:** As an initial matter, the Court found that the Board properly precluded the additional documentation submitted after the claimant's attorney's initial application for board review as they were submitted 30 days after the Notice of Decision. The Court also found substantial evidence to support the finding that the claimant was at maximum medical improvement and subject to a schedule loss of use award.