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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

IVAN SINELNIK, Appellant

v

AJK, INC., et al., Respondents

and

WORKERS' COMPENSATION BOARD

Decided September 26, 2019

Facts: The claimant was an asbestos handler for several employers and stopped working in 2011. On October 21, 2014, the claimant filed a claim alleging injuries to his back, arms, hands and knees due to repetitive trauma. Initially, the claim was established but on appeal the Board Panel remitted for further development on issues of causal relationship. The WCLJ then disallowed the claim on a lack of causal relationship. The Board Panel affirmed.

Holding: Affirmed.

Discussion: Though the Board may not fashion its own expert medical opinions, it may reject medical evidence as incredible or insufficient even where there is no contrary opinion presented. In this case, the claimant's doctor did not see him until over three years after he last worked and relied, at least in part, on claimant's unsupported description of his medical history. The Board's decision was based upon substantial evidence.