

**STEWART, GREENBLATT, MANNING & BAEZ**  
**ATTORNEYS AT LAW**

DAVID J. GOLDSMITH  
PETER M. DeCURTIS  
LISA LEVINE  
ANDREA L. De SALVIO  
KRISTY L. BEHR  
RAYMOND J. SULLIVAN  
LUKE R. TARANTINO  
NICOLE A. SUISSA  
JONATHAN R. BAEZ  
DIANE P. WHITFIELD

ROBERT W. MANNING  
MADGE E. GREENBLATT  
RETIRED

6800 JERICHO TURNPIKE  
SUITE 100W  
SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

DONALD R. STEWART (1976-2021)  
KAFI WILFORD (2003-2010)  
MICHAEL H. RUINA (1992-2016)

RICARDO A. BAEZ  
MARIA E. CRETA  
JAMES MURPHY  
MONICA O'BRIEN  
NABISUBI MUSOKE  
SACHEE N. ARROYO  
OF COUNSEL

State of New York Supreme Court, Appellate Division  
Third Judicial Department  
In the Matter of the Claim of

ANTHONY PRESSIMONE, Appellant,

v.

NEW YORK CITY HOUSING AUTHORITY et. al., Respondents,  
WORKERS' COMPENSATION BOARD, Respondent.

May 1, 2025

Facts: The claimant sustained injuries that included the left shoulder. Permanency opinions were offered from the attending physician as well as the carrier's consultant. After litigation, the Law Judge held that the attending physician's opinion was precluded as the doctor had failed to testify within the timeline provided. The consultant's opinion was credited, and a schedule loss of use award was directed accordingly. The claimant appealed and the Board Panel affirmed.

Holding: *Modified.*

Discussion: Here, the decision to preclude the attending physician's testimony is not supported by substantial evidence. After requesting the opportunity to cross-examine the attending physician, the carrier issued three subpoenas to compel the doctor's testimony. The first two subpoenas were within the time frame provided by the Law Judge, but the doctor was known to be unavailable on those dates at the time the subpoenas were issued. The doctor was available at the time of the third subpoena, but it was after the deadline. The carrier stated on the record that it would request an extension of time to cross examine the doctor but ultimately failed to do so.