

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Ebanks v. Sing Sing Corr. Facility

2026 NY Slip Op 02490 · No. CV-25-0485 · Decided April 23, 2026

SUMMARY

The Appellate Division, Third Department, affirmed a Workers' Compensation Board decision refusing to preclude an independent medical examination report. The court held that the carrier substantially complied with Workers' Compensation Law § 137 and 12 NYCRR 300.2 despite the absence of an IME-3 form, because the IME-5 form and accompanying instructions provided the required information and were properly filed. The court concluded that the report could be considered in determining the claimant's schedule loss of use.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Ceresia, J.; Clark, J.P.; Fisher, J.; Powers, J.; Corcoran, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	April 23, 2026
DOCKET	CV-25-0485
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed from a Workers' Compensation Board decision affirming a Workers' Compensation Law Judge's refusal to preclude an independent medical examination report.
STANDARD OF REVIEW	Whether the Board abused its discretion in finding substantial compliance with Workers' Compensation Law § 137 and 12 NYCRR 300.2 and declining to preclude the IME report.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Omar Ebanks v. Sing Sing Correctional Facility, State Insurance Fund, Workers' Compensation Board

TOPICS

- workers compensation
- administrative law
- appellate procedure
- statutory interpretation
- standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the absence of an IME-3 form required preclusion of the carrier's independent medical examination report under Workers' Compensation Law § 137 and 12 NYCRR 300.2.
2. Whether the Workers' Compensation Board abused its discretion in finding substantial compliance with the applicable independent medical examination filing and notice requirements.

HOLDINGS

1. The absence of an IME-3 form did not require preclusion where the carrier properly filed an IME-5 form with instructions that identified the purpose of the examination, the body parts to be examined, and the questions posed to the examiner, and the IME-4 form and report were timely filed and served.
2. The Workers' Compensation Board did not abuse its discretion in finding substantial compliance and permitting consideration of the April 2024 IME report.

KEY QUOTATIONS

"A report of an examination that does not substantially comply with the requirements of Workers' Compensation Law [§] 137 . . . shall not be admissible as evidence" (2026 NY Slip Op 02490, at *2)

"As a result of the 2014 amendments to 12 NYCRR 300.2 (d), only a form IME-4 and not an additional form IME-3 need be filed with a consultant's [IME] report" (2026 NY Slip Op 02490, at *3)

FACTUAL BACKGROUND

Claimant, a correction officer, was injured at work in January 2023, and his workers' compensation claim was established for various injuries. After his treating physician assessed permanency, the State Insurance Fund arranged an independent medical examination and filed an IME-5 form with detailed instructions identifying the body parts and questions for examination. Although no IME-3 form was filed, the IME-5 and instructions were received by the Board, the parties were served, and an IME-4 form and medical report were timely filed and served.

PROCEDURAL HISTORY

After claimant requested preclusion of the carrier's April 2024 independent medical examination report under Workers' Compensation Law § 137 and 12 NYCRR 300.2 because no IME-3 form had been filed, the Workers' Compensation Law Judge declined to preclude the report. The Workers' Compensation Board affirmed, finding substantial compliance with the statutory and regulatory requirements. The Third Department affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Matter of Petti v. Asplundh Constr. Corp., 244 AD3d 1539, 1540 [3d Dept 2025]
- Matter of Olczyk v. Verizon N.Y., Inc., 33 AD3d 1109, 1109 [3d Dept 2006]
- Employer: NYC Transit Authority, 2026 WL 124802, *2, 2026 NY Wrk Comp Bd LEXS G3452976, *1 [WCB No. G345 2976, Jan. 13, 2026]
- Employer: FOJP Service Corporation, *3, 2024 NY Wrk Comp Bd LEXS 344, *7 [WCB No. G151 1069, Jan. 18, 2024]
- Employer: Tishman Speyer Properties LP, 2026 WL 200333, *2, 2026 NY Wrk Comp LEXIS 301, *3 [WCB No. G343 2971, Jan. 16, 2026]
- Matter of Murrah v. Jain Irrigation, Inc., 157 AD3d 1088, 1089 [3d Dept 2018]

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