

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

Matter of Davis v. Gia Quinto Masonry

2026 N.Y. Slip Op. 02486 (N.Y. Ct. App. 2026) · No. CV-24-2025 · Decided April 23, 2026

SUMMARY

The Appellate Division, Third Department affirmed a Workers' Compensation Board decision establishing that a brick mason's bilateral hand, wrist, and knee conditions constituted an occupational disease. The court held that substantial medical evidence supported the Board's determination despite conflicting medical testimony. It also upheld a penalty imposed on the employer's carrier for unilaterally initiating a third deposition of the claimant's treating physician while an administrative appeal was pending.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Corcoran, J.; Clark, J.P.; Aarons, J.; Ceresia, J.; McShan, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	April 23, 2026
DOCKET	CV-24-2025
DISPOSITION	affirmed
PROCEDURAL POSTURE	The employer and its workers' compensation carrier appealed from a Workers' Compensation Board decision that established claimant's occupational-disease claim and imposed a reduced penalty for instituting a frivolous proceeding.
STANDARD OF REVIEW	The Board's determination concerning the presence and classification of an occupational disease is reviewed for substantial evidence and will not be disturbed even if the record contains evidence supporting a contrary result. The Board's resolution of conflicting medical evidence is entitled to great deference.
PRECEDENTIAL VALUE	published
PARTIES	Gia Quinto Masonry et al., employer and workers' compensation carrier v. Samuel Davis, claimant, Workers' Compensation Board

TOPICS

workers compensation

administrative law

standard of review

appellate procedure

PRACTICE AREAS

workers' compensation

employment law

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the Workers' Compensation Board's determination that claimant's bilateral hand, wrist, and knee conditions constituted an occupational disease causally related to his work as a brick mason.
2. Whether the Workers' Compensation Board properly imposed a penalty on the carrier for initiating a frivolous proceeding by unilaterally conducting a third medical deposition while an administrative appeal was pending.

HOLDINGS

1. The Board's determination that claimant sustained an occupational disease was supported by substantial evidence and would not be disturbed.
2. The Board properly determined that a penalty was warranted because the carrier unilaterally subpoenaed the treating physician for a third deposition without a directive from the Workers' Compensation Law Judge while its administrative appeal was pending.

KEY QUOTATIONS

*“To be entitled to workers' compensation benefits for an occupational disease, a claimant must establish a recognizable link between his or her condition and a distinctive feature of his or her occupation through the submission of competent medical evidence” ([*1])*

*“The Board's decision regarding the presence and classification of a medical condition — i.e., an occupational disease — is a factual consideration that will not be disturbed if it is supported by substantial evidence” ([*1])*

FACTUAL BACKGROUND

Samuel Davis worked as a brick mason for more than 25 years, 35 to 40 hours per week, performing repetitive lifting, carrying, bending, squatting, troweling, hammering, climbing, and use of vibrating tools. He claimed that repetitive work-related trauma caused conditions affecting both hands and wrists and both knees. His treating physician, Robert Hecht, related the conditions to his occupational duties, while the carrier's consultant disputed causation. While the carrier's administrative appeal was pending, it unilaterally subpoenaed Hecht for a third deposition, leading to a penalty proceeding.

PROCEDURAL HISTORY

A Workers' Compensation Law Judge established claimant's claim for an occupational disease involving his bilateral hands, wrists, and knees and imposed a \$2,500 penalty on the carrier for initiating a frivolous proceeding. The Workers' Compensation Board affirmed the claim determination but reduced the penalty to \$500. The carrier appealed to the Appellate Division, which affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Matter of Velez v Eger Health Care & Rehab Ctr., 217 AD3d 1095, 1096 [3d Dept 2023]
- Matter of Kretunski v Citywide Env'tl. Servs. LLC, 233 AD3d 1218, 1218-1219 [3d Dept 2024]
- Matter of Powers v State Material Mason Supply, 202 AD3d 1265, 1266 [3d Dept 2022], lv denied 38 NY3d 914 [2022]
- Matter of Morgan v Kinray, Inc., 226 AD3d 1288, 1290 [3d Dept 2024]
- Matter of Manka v Goodyear Tire and Rubber Co., 123 AD3d 1172, 1173 [3d Dept 2014], lv denied 25 NY3d 909 [2015]
- Matter of Freyta v Calvin Maintenance Inc., 220 AD3d 1036, 1038 [3d Dept 2023]
- Matter of Camby v System Frgt., Inc., 105 AD3d 1237, 1238 [3d Dept 2013]
- Matter of Scott v Bimbo Bakeries USA, Inc., 171 AD3d 1421, 1423 [3d Dept 2019]
- Matter of Garcia v MCI Interiors, Inc., 158 AD3d 907, 908 [3d Dept 2018]