

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

Matter of Blake v. Niagara Wheatfield Cent. Sch. Dist.

2026 NY Slip Op 00949 (N.Y. Ct. App. 2026) · No. CV-24-1460 · Decided February 19, 2026

SUMMARY

The New York Appellate Division, Third Department, held that a claimant classified as permanently partially disabled in 2011, while employed at or above preinjury wages, was attached to the labor market at the time of classification. Applying the retroactive 2017 amendment to Workers' Compensation Law § 15(3)(w), the court concluded that the claimant was not required to demonstrate ongoing labor-market attachment for benefits under the earlier claim. The court reversed that portion of the Workers' Compensation Board's amended decision and remitted the matter for further proceedings.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Ceresia, J.; Garry, P.J.; Fisher, J.; McShan, J.; Mackey, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	February 19, 2026
DOCKET	CV-24-1460
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant appealed from an amended decision of the New York Workers' Compensation Board that, among other things, determined that she was required to demonstrate ongoing attachment to the labor market in Claim No. 1 and rescinded awards after April 17, 2023.
PRECEDENTIAL VALUE	published
PARTIES	Bonnie C. Blake v. Niagara Wheatfield Central School District, FCS Administrators et al., Workers' Compensation Board

TOPICS

- workers compensation
- statutory interpretation
- preservation of error
- appellate procedure
- administrative law

PRACTICE AREAS

workers' compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether claimant's procedural due process challenge based on the Special Fund's lack of notice and participation was preserved and, if so, whether claimant could assert the Special Fund's due process rights.
2. Whether Workers' Compensation Law § 15(3)(w), as amended in 2017, applied retroactively to relieve claimant of the requirement to demonstrate ongoing labor-market attachment in Claim No. 1.
3. Whether the Board properly required claimant to demonstrate ongoing labor-market attachment after her 2011 permanent-partial-disability classification.

HOLDINGS

1. The due process challenge was unpreserved because it was not raised before the Workers' Compensation Board. In any event, the Special Fund was not aggrieved by the Board's labor-market-attachment determination, and only the Special Fund possessed standing to object to an alleged violation of its own procedural due process rights.
2. The 2017 amendment applied retroactively to Claim No. 1 because claimant had been classified with a permanent partial disability before the amendment, was attached to the labor market at classification by virtue of her full-time employment, and had not previously been found to have voluntarily withdrawn from the labor market or failed to establish attachment.
3. Claimant was not required to demonstrate ongoing attachment to the labor market following her 2011 classification with a permanent partial disability in Claim No. 1.

KEY QUOTATIONS

*“For the amended statute to relieve a claimant from the burden of demonstrating ongoing attachment, ‘the claimant must have been classified initially as permanently partially disabled and found to be entitled to a loss of wage earnings compensation award’” (*3)*

*“[T]he amendment to Workers' Compensation Law § 15 (3) (w) does not overrule the requirement that a claimant must show attachment to the labor market at the time of classification” (*3)*

*“the 2017 amendment applies retroactively to the claim and obviates the need for claimant to demonstrate an attachment to the labor market” (*3)*

FACTUAL BACKGROUND

Blake was injured at work in 2000, and her workers' compensation claim was established for neck and shoulder injuries. She returned to full-time employment at or above her preinjury wages, was classified with a permanent partial disability in 2011, and received no indemnity award because she had no causally related lost earnings at that time. In 2017 she sustained a second workplace injury, and later proceedings concerning labor-market attachment resulted in the Board determining that she was unattached to the labor market in both claims.

PROCEDURAL HISTORY

Claimant sustained a 2000 workplace injury and was classified with a permanent partial disability in 2011 while working at or above her preinjury wages, so no indemnity award was made at that time. After a later 2017 injury and proceedings concerning labor-market attachment, the Workers' Compensation Board applied the attachment requirement to Claim No. 1. The Appellate Division held that the 2017 amendment to Workers' Compensation Law § 15(3)(w) applied retroactively to Claim No. 1 and remitted for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Workers' Compensation Board must conduct further proceedings consistent with the decision, without requiring claimant to demonstrate ongoing attachment to the labor market in Claim No. 1.

CASES CITED

- Matter of Kigin v State of N.Y. Workers' Compensation Bd., 24 NY3d 459, 469 (2014)
- Matter of Sheikh v White & Blue Group Corp., 168 AD3d 1196, 1199 (3d Dept 2019)
- Matter of Alzate v Quality Bldg. Servs. Corp., 238 AD3d 1437, 1440 (3d Dept 2025), lv denied 44 NY3d 910 (2026)
- Matter of Talarico v Niagara County Dept. of Social Servs., 225 AD3d 1061, 1062 (3d Dept 2024)
- Matter of Digbasanis v Pelham Bay Donuts Inc., 224 AD3d 1047, 1048 (3d Dept 2024)
- Matter of O'Donnell v Erie County, 35 NY3d 14, 21 (2020)
- Matter of Scott v Visiting Nurses Home Care, 172 AD3d 1868, 1870, 1872 (3d Dept 2019), lv dismissed 34 NY3d 1011 (2019)
- Matter of Ryan v City of Albany Water Dept., 244 AD3d 1475, 1476 (3d Dept 2025)
- Matter of Delk v Orange & Rockland, 191 AD3d 1067, 1070 (3d Dept 2021)
- Matter of Ireland v Cattaraugus County Dept. of Nursing Homes-Olean Pines, 182 AD3d 956, 958 (3d Dept 2020)
- Matter of Wilber v Hamister Group, LLC, 214 AD3d 1280, 1281-1282 (3d Dept 2023), lv denied 40 NY3d 903 (2023)
- Matter of Georges v Zotos Intl. Inc., 198 AD3d 1047, 1050-1051 (3d Dept 2021)
- Matter of Pryer v Incorporated Vil. of Hempstead, 175 AD3d 1663, 1665 (3d Dept 2019)
- Matter of Santos v Brickens Constr. Inc., 175 AD3d 1742, 1743 (3d Dept 2019)
- Matter of Georges v Zotos Intl. Inc., 198 AD3d 1047, 1050-1051 (3d Dept 2021)

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