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Schofel v. Route 22 Nissan

In Schofel v. Route 22 Nissan (decided July 11, 2013) an unpublished Superior Court decision, the court affirmed the trial judge's decision dismissing the claim. The Workers' Compensation trial judge denied petitioner's claim that he sustained a work accident. The petitioner alleged his manager struck him in the right ear with his fist when he was displeased. The manager testified that he did not punch the petitioner but merely caught his foot and fell into the petitioner. No criminal complaint was filed and immediate medical attention was not sought. Several days later petitioner claimed to have lost his balance and fallen on becoming dizzy. Petitioner's expert found him totally and permanently disabled as a result of the trauma, while Respondent's expert testified the petitioner's tests were normal and his complaints subjective. He also reviewed the records and concluded there was no disability attributable to the accident. The trial judge found serious questions with respect to the petitioner's credibility both as to the history of the incident and the complaints to the doctor. He also found defendant's expert, a board certified orthopedist, better qualified than petitioner's expert, a family practice physician who no longer treats patients. Additionally, petitioner's expert failed to take into account petitioner's past injuries and attributed everything to the current incident. The appellate division affirmed noting it could only review whether the findings made could reasonably have been reached on sufficient credible evidence present in the record, considering the proofs as a whole, with due regard to the opportunity of the one who heard the witnesses to judge their credibility. The court found there was sufficient support for the decision.

This case illustrates how important it is to pick a qualified doctor and make sure that doctor reviews all relevant materials when making his or her decision.

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Patterson v. Atlantic Club, 2013 WL 3466446 (App. Div. 2013).

In the matter of Patterson v. Atlantic Club, 2013 WL 3466446 (App. Div. 2013), the Appellate Division affirmed the worker's compensation judge's dismissal of a claim petition seeking workers' compensation benefits.

On September 22, 2010, Patterson, a personal trainer, allegedly injured herself while returning exercise bands intended to be used with a client who never appeared for the session. Patterson allegedly tripped, fell and broke her wrist. Her employer alleged that she injured herself while working out on her own time.

The judge did not find Patterson or her witness to be credible and concluded that Patterson was not working at the time of the accident. The judge also noted that Patterson had changed out of her uniform and into her personal clothes because she was no longer working and on her personal time.

Based upon the evidence presented, the judge dismissed Patterson's claim for failing to meet her burden of proof by a

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preponderance of the credible evidence.

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