

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: September 3, 2026

CV-25-0822

In the Matter of the Claim of
LUIS LOJA-SAULA,
Respondent,
v

COSAN CONSTRUCTION CORP.
et al.,
Appellants.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: August 20, 2026

Before: Clark, J.P., Pritzker, Ceresia, Mackey and Corcoran, JJ.

Goldberg Segalla LLP, Rochester (*Bradford J. Reid* of counsel), for appellants.

Robert A. Cardali & Associates, LLP, New York City (*Scott T. Horn* of *Horn Appellate Group*, Brooklyn, of counsel), for Luis Loja-Saula, respondent.

Letitia James, Attorney General, New York City (*Marjorie S. Leff* of counsel), for Workers' Compensation Board, respondent.

Clark, J.P.

Appeal from a decision of the Workers' Compensation Board, filed April 21, 2025, which ruled that claimant did not violate Workers' Compensation Law § 114-a.

Claimant, a bricklayer, filed a claim for workers' compensation benefits for work-related injuries sustained on April 15, 2022 when a piece of a concrete cinderblock fell on him. Following a hearing, a Workers' Compensation Law Judge (hereinafter WCLJ) established the claim for injuries to claimant's head, left shoulder and back, but disallowed the claim for injuries to his neck, left wrist and left knee. Upon review, the Workers' Compensation Board modified the WCLJ's decision by amending the claim to include injuries to the neck, left wrist and left knee. At a subsequent hearing, the employer and its workers' compensation carrier (hereinafter collectively referred to as the carrier) alleged that claimant failed to disclose prior injuries to the sites listed in his C-3 claim form, in violation of Workers' Compensation Law § 114-a. At the conclusion of the hearings that ensued in that regard, the WCLJ found that claimant had violated Workers' Compensation Law § 114-a, disqualified him from receiving compensation benefits attributable to the violation, and imposed a discretionary penalty permanently barring him from receiving future wage replacement benefits. Upon claimant's application for administrative review, the Board found insufficient proof that claimant had violated Workers' Compensation Law § 114-a and rescinded the WCLJ's decision. The carrier appeals.

We affirm. "A claimant who, for the purpose of obtaining workers' compensation benefits, knowingly makes a false statement or representation as to a material fact shall be disqualified from receiving any compensation directly attributable to such false statement or representation" (*Matter of Augone v Stop & Shop Supermarket Co. LLC*, 236 AD3d 1283, 1284 [3d Dept 2025] [internal quotation marks and citations omitted]; see *Matter of Linane v Gristede's Food Inc.*, 231 AD3d 1219, 1220 [3d Dept 2024]). "An omission of material information may constitute a knowing false statement or misrepresentation" (*Matter of Winkelman v Sumitomo Rubber USA*, 228 AD3d 1153, 1155 [3d Dept 2024] [internal quotation marks and citations omitted]; see *Matter of Nappi v Verizon N.Y.*, 205 AD3d 1181, 1182 [3d Dept 2022]). "Whether a claimant has violated the statute lies within the province of the Board, which is the sole arbiter of witness credibility, and its decision will not be disturbed if supported by substantial evidence" (*Matter of Harmon v Faxton Sunset St. Luke's Health Care Ctr. Inc.*, 242 AD3d 1288, 1289 [3d Dept 2025] [internal quotation marks and citations omitted]; see *Matter of Hartman v Arric Corp.*, 224 AD3d 959, 960 [3d Dept 2024]).

In support of an alleged Workers' Compensation Law § 114-a violation, the carrier submitted two Insurance Services Office (hereinafter ISO) reports that listed insurance claims the carrier alleged claimant had filed pertaining to prior accidents he purportedly failed to disclose in his C-3 form. The first ISO report was based upon a search for claims

brought under claimant's name and found three matches, but two of the matches had slightly different names than claimant and listed different home addresses than the address claimant testified to as the only one he has had in this country. The third match contained claimant's name and his address, and indicated that he was involved in a motor vehicle accident in 2017 with an unspecified injury. The second ISO report was based upon a search of claims brought under claimant's purported Social Security number and it found 13 matches. Two such matches referenced claimant's correct name and address, and indicated that he filed claims based upon an April 15, 2022 injury date, which is the date that claimant was injured by the cinderblock. Both matches referenced injuries to claimant's head, teeth, left shoulder and left side of neck, and one of the matches indicated that the claim was covered by a commercial liability policy, while the other match indicated that the claim was covered by a workers' compensation policy and referenced the employer as the insured. The remaining 11 matches involved personal automobile insurance claims spanning from 1999 to 2014, which were made by individuals with different dates of birth and addresses than claimant, as well as slightly different names. The carrier also submitted a January 2024 arbitration award report that detailed a lawsuit brought by a pharmacy against an insurance carrier seeking payment for prescriptions provided to an individual with claimant's name who, according to the report, was involved in a motor vehicle accident on April 15, 2022, the same date as claimant's work injury.

Claimant testified that he was not involved in a motor vehicle accident on April 15, 2022 and, although he stated that he was in a motor vehicle accident in 2021, he could not recall any of the motor vehicle accidents referenced in the ISO reports or filing claims related to injuries suffered therein. Claimant further testified that he could not recall suffering any injuries to the body parts at issue in this claim prior to April 15, 2022. According to claimant, he does not have a Social Security number and has never provided a number to anyone, and he did not get any prescription medicine at the pharmacy involved in the arbitration award.

We disagree with the carrier's contention that the Board erred in finding insufficient proof of a Workers' Compensation Law § 114-a violation. The Board noted the inconsistencies in the ISO reports regarding whether the individuals listed therein were claimant, including the 11 matches in the second report pertaining to individuals with different birth years and addresses than claimant. The Board also noted that the two matches that identified claimant by name, address and birthdate on that report could be referring to claimant's April 15, 2022 work-related injuries, rather than injuries from a motor vehicle accident. Finally, the Board found nothing to verify that the individual

identified in the arbitration award report by name only as the injured party was, in fact, claimant. Given that "it is not the role of this Court to second-guess the Board's resolution of factual and credibility issues, and the mere fact that there may be evidence in the record to support contrary conclusions is of no moment," we find that the Board's decision that there is insufficient proof that claimant violated Workers' Compensation Law § 114-a is supported by substantial evidence and will not be disturbed (*Matter of Winkelman v Sumitomo Rubber USA*, 228 AD3d at 1156 [internal quotation marks and citations omitted]; see *Matter of Harmon v Faxton Sunset St. Luke's Health Care Ctr. Inc.*, 242 AD3d at 1290).

Pritzker, Ceresia, Mackey and Corcoran, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial "R" and "M".

Robert D. Mayberger
Clerk of the Court