

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

Decided and Entered: September 10, 2026

CV-25-0636

In the Matter of the Claim of
FRITZ-MICHAEL D.
PARKINSON,
Claimant,
v

MANHATTAN AND BRONX
SURFACE TRANSIT
OPERATING AUTHORITY,
Appellant.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: August 20, 2026

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

Jones Jones LLC, New York City (*David S. Secemski* of counsel), for appellant.

Letitia James, Attorney General, New York City (*Donya Fernandez* of counsel),
for respondent.

Corcoran, J.

Appeal from a decision of the Workers' Compensation Board, filed March 26, 2025, which ruled that claimant sustained a causally related psychological injury and established his claim for workers' compensation benefits.

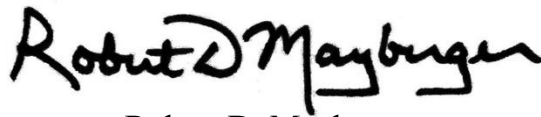
Claimant, a bus operator, was stopped at a traffic light when he witnessed a box truck run over and kill a bicyclist. Claimant thereafter filed a claim for workers' compensation benefits, alleging that he suffered a psychological injury as a result. Following various proceedings, a Workers' Compensation Law Judge, among other things, established the claim. Upon an administrative appeal, the Workers' Compensation Board, in a decision filed March 26, 2025, affirmed that decision. The employer appeals.

After the issuance of the March 2025 decision, the Board issued a new decision on March 16, 2026 denying the employer's request for full Board review but amending and superseding its March 2025 decision "to include additional relevant facts and clarify the [l]egal [a]nalysis that currently applies to" psychological injury claims. Under this new analysis, the Board again established the claim. The issuance of the March 2026 amended decision rendered this appeal moot (*see Matter of Loper v Suffolk County Water Auth.*, 247 AD3d 1441, 1441-1442 [3d Dept 2026]; *Matter of Djukanovic v Metropolitan Cleaning LLC*, 177 AD3d 1060, 1060-1061 [3d Dept 2019]; *cf. Matter of Chalcoff v Project One*, 12 AD3d 872, 872 [3d Dept 2004]; *Matter of Raynor v Allegheny Ludlum Steel Corp.*, 36 AD2d 1007, 1007 [3d Dept 1971]). Although both Board decisions reached the same ultimate conclusion to establish the claim, the March 2026 decision "is not substantially similar to the one on appeal and, indeed," establishes the claim under a different legal analysis (*Matter of Loper v Suffolk County Water Auth.*, 247 AD3d at 1442). Contrary to the employer's contention, the merits of the March 2026 decision are not reviewable in this appeal (*see id.*; *Matter of Rubino v City of New York*, 27 AD2d 588, 588 [3d Dept 1966]; *see also* CPLR 5517).

Clark, J.P., Pritzker, Ceresia and Mackey, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:

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

Robert D. Mayberger
Clerk of the Court