

Decided and Entered: May 30, 2013

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In the Matter of the Claim of  
MICHAEL A. JAINDL,  
Respondent,

**DISMISSED THE APPEAL as  
interlocutory.**

v

ROBERT GREEN CHEV-OLDS, INC.,  
et al.,  
Appellants.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,  
Respondent.

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Calendar Date: April 26, 2013

Before: Stein, J.P., Spain, Garry and Egan Jr., JJ.

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Michael Miliano, State Insurance Fund, Endicott (William R. Hartman of counsel), for appellants.

Mark Lewis Schulman, Monticello, for Michael A. Jaindl, respondent.

Eric T. Schneiderman, Attorney General, New York City (Iris A. Steel of counsel), for Workers' Compensation Board, respondent.

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Egan Jr., J.

Appeal from a decision of the Workers' Compensation Board, filed November 30, 2011, which ruled that certain evidence was not admissible to support a violation of Workers' Compensation Law § 114-a.

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In 1995, claimant, a mechanic, sustained a work-related injury to his lower back and right leg while installing a plow frame onto a truck. Claimant was awarded workers' compensation benefits and, in 1999, was found to be permanently partially disabled. As part of its efforts to assess claimant's ongoing entitlement to benefits, the employer's workers' compensation carrier periodically sent work activity report forms (commonly known as WA-1 forms) to claimant requesting information regarding his employment status. Upon claimant's alleged failure to disclose certain employment on the WA-1 forms, the carrier asserted a violation of Workers' Compensation Law § 114-a. Following a hearing, a Workers' Compensation Law Judge found that because the WA-1 forms had not been contemporaneously sent to claimant's attorney of record, they were – pursuant to a recent decision of the Workers' Compensation Board – inadmissible. The carrier sought review and the Board affirmed, prompting this appeal.

Given that the Board's decision was interlocutory and neither disposed of all substantive issues nor addressed a dispositive legal issue, the decision is not appealable (see Matter of Hollis v Morelli Masons, Inc., 98 AD3d 1196, 1197 [2012]; Matter of Fetter v Verizon, 94 AD3d 1277, 1278 [2012]). As we previously have noted, the piecemeal review of issues in workers' compensation cases should be avoided, and the evidentiary ruling at issue here is more appropriately reviewed upon an appeal from the Board's final decision (see Matter of Fetter v Verizon, 94 AD3d at 1278; Matter of Ogbuagu v Ngbadi, 61 AD3d 1198, 1199 [2009]).

Stein, J.P., Spain and Garry, JJ., concur.

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ORDERED that the appeal is dismissed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court