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WC Appellate Division Decision issued on January 17, 2018 – Multiple Gradual Injuries to Same Area

It had been determined by the Board that the employee sustained a gradual occupational injury to his right elbow on October 29, 2000. Several years later the employee filed a Petition for Award alleging a second gradual injury to the same portion of the body occurring on May 8, 2009. There was conflicting medical evidence as to whether or not a second injury had been sustained, and the ALJ found that the employee did not sustain his burden of proof. In *White v. S.D. Warren Company*, Me. W.C.B. No. 18-02 (App. Div. 2018) the Appellate Division rejected the employee's appeal and found that the ALJ committed no error in weighing the contrasting medical opinions in finding that the employee had not established a new gradual injury to the same portion of the body. The existence of contrary medical opinion did not compel the hearing officer to find in the employee's favor, and the ALJ's decision fell within the range of her "sound discretion" and was not arbitrary or capricious.

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