

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

AMALIA MONTERROSO, *Applicant*

vs.

**COURTYARD MARRIOT;
ZURICH NORTH AMERICA CLAIMS, *Defendants***

**Adjudication Numbers: ADJ1230724 (LAO 0867680), ADJ4302508 (LBO 0375476)
Los Angeles District Office**

**OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION
AND DECISION AFTER RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will grant the Petition for Reconsideration and rescind the November 10, 2021 Order.

We note that defendant, in the Answer, states that applicant's cases were already dismissed by an October 20, 2021 Order and that defendant believes the Order was properly served. However, the October 20, 2021 Order that was filed in the Electronic Adjudication Management System (EAMS) does not include a signed proof of service and the Order was not entered into EAMS until November 1, 2021. Accordingly, it does not appear that applicant's cases were ordered dismissed prior to the November 10, 2021 Order which we rescind.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED as the Appeals Board's Decision After Reconsideration that the November 10, 2021 Order of Dismissal is **RESCINDED** and the matter is returned to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

MARGUERITE SWEENEY, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 24, 2022

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**AMALIA MONTERROSO
BERGER & MICHELENA
LOUIE STETTLER**

MWH/oo

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. o.o

**REPORT & RECOMMENDATION ON
PETITION FOR RECONSIDERATION**

**I.
INTRODUCTION**

According to the Application for Adjudication of Claim in ADJ1230724 (LAO-0867680), the applicant, Amalia Monterroso, who is 61 years old, did sustain injury at work on 11/28/2005 to her neck, back, knees, left shoulder, left arm and other body parts when she fell down while employed as a housekeeping.

In ADJ4302508 the information in EAMS indicates that the applicant did sustain injury at work on 11/28/2005 to her lower extremities. The information in EAMS did not explain how the injury happened or what the applicants' occupation was at the time when the injury happened.

On November 22, 2021, the applicant filed a timely Petition for Reconsideration of an order of the court dated November 10, 2021, which dismissed the applicant's cases. According to the petition, the order to dismiss issued without service on applicant's counsel of a notice of intent to dismiss. According to the petition the notice of intent to dismiss case for failure to prosecute issued on April 21, 2021.

According to the Petition for Reconsideration, defendant filed their 3rd Petition to Dismiss on February 16, 2021 and did not serve the petition on the proper address of the applicant's counsel.

According to the Petition for Reconsideration, the Official Address Record showed applicant's counsel's address as 500 S. Grand Ave., Suite 1550, Los Angeles, California 90017 but the proof of service on the 3rd Amended Petition and all documents were not served as shown on the Official Address Record, as required.

**II.
DISCUSSION**

The defendant served the 3rd Amended Petition to Dismiss, dated February 16, 2021, and the Notice of Intention to Dismiss cases, dated April 1, 2021, on the applicant's attorney at 523 West 6th Street, Suite 625, Los Angeles, California 90014-1191. Those documents were served on the applicant's attorney at an incorrect address.

III.
RECOMMENDATION

It is respectfully recommended that the Petition for Reconsideration, filed on November 22, 2021 (and dated November 24, 2021) be granted, and the Order dated 11/10/2021, which dismissed the applicant cases, be rescinded.

DATE: December 8, 2021

Kacey Keating
WORKERS' COMPENSATION JUDGE