

1 STATE OF CALIFORNIA  
2 DIVISION OF WORKERS' COMPENSATION  
3 WORKERS' COMPENSATION APPEALS BOARD

4 CASE NO:

5 Applicant

POM District Office

6 vs.

7 AMENDED  
8 MINUTES OF HEARING  
9 AND  
10 SUMMARY OF EVIDENCE

11 Defendant(s)

12 LOCATION: Pomona, California  
13 DATE AND TIME: May 7, 2019; 10:58 A.M. - 11:39 A.M.

14 JUDGE: THE HONORABLE  
15 REPORTER: Hearing Reporter

16 APPEARANCES: Applicant

17 BY:  
18 Attorneys for Applicant

19 DIETZ, GILMOR & CHAZEN  
20 BY: ROBERT DIAZ DE LEON  
21 Attorneys for Defendant(s)

22 BY:  
23 Attorneys for Defendant(s)

Spanish Interpreter

24 WITNESS: Applicant

25 (20 pp.)

1 THE FOLLOWING FACTS ARE ADMITTED:

2 1. born March while  
3 employed during the period 12/1/09 to 8/31/2010 as a caregiver,  
4 at El Centro, California by  
5 claims to have sustained injury arising out of and in the  
6 course of employment to the neck, back, bilateral upper  
7 extremities, and psyche.

8 2. At the time of injury the employer  
9 administered by was legally uninsured.

10 3. The employer has paid no benefits.

11 4. The employer has furnished no medical treatment.

12 5. The primary treating physician is

13 5. No attorneys' fees have been paid and no  
14 attorney fee arrangements have been made.

15 THE ISSUES ARE:

16 1. Injury arising out of and in the course of  
17 employment regarding

18 2. disputes liability as  
19 "other insurance" per Insurance Code Section 1063.1(c)(9) due  
20 to legally uninsured status of

21 All other issues related to this case are deferred.

22 EXHIBITS:

23 BOARD EXHIBIT X: AME reports of Dr.  
24 10/3/18 and 4/7/14.

25 BOARD EXHIBIT Y: AME reports of  
9/14/18, 1/8/15, 10/16/14, 7/16/13, and 3/14/12.

DEFENSE EXHIBIT A: Subpoenaed records from

DEFENSE EXHIBIT B: QME report by Dr.  
dated 9/10/18.

DEFENSE EXHIBIT C: denial dated 8/23/17.

1 DEFENSE EXHIBIT D: records, job description.

2 DEFENSE EXHIBIT E: records, wage statement.

3 DEFENSE EXHIBIT F: Pages 34, 35, and 38 of  
4 applicant's deposition, Volume III, dated 10/25/17.

5 LET THE RECORD REFLECT that Defense Exhibits A  
6 through F are admitted into evidence without objection.

7 \* \* \*

8 SUMMARY OF EVIDENCE

9 the applicant, was called, duly  
10 sworn through the interpreter, who was also duly sworn, and  
11 testified substantially as follows:

12 DIRECT EXAMINATION: (BY MS.)

13 The applicant started working for  
14 in 2009. She stopped working for them in February 2011. Her  
15 job title was CNA.

16 Her duties included bathing patients, waking them up,  
17 giving them breakfast, and changing their clothes. They all  
18 related to their personal care. She has claimed a cumulative  
19 trauma due to repetitive job duties while working for  
20 She also worked for

21 For she provided home care for Her  
22 duties included giving him his medication, personal care,  
23 cleaning his clothes, cleaning the house area, and preparing  
24 his food. She also took to the doctor, would buy  
25 his food, and cook for him.

26 She testified that she did not suffer injury due to  
27 her continuous job duties either working for  
28 or She did suffer three specific injuries  
29 working for Those were the only injuries that  
30 she suffered. She did not suffer any injury working for  
31 and all of her injuries were the result of specific  
32 accidents.

33 While working for her day-to-day duties  
34 were to assist She does not believe this  
35 caused her injury. All her injuries are due to her work at

1 CROSS-EXAMINATION: (BY MR. DIAZ DE LEON)

2 While working for as a CNA she would have to  
3 lift patients out of bed and onto a wheelchair. While working  
4 for caring for he was able to walk on his  
5 own. She did not have to assist him physically. Her duties  
6 included light housekeeping. She did not do any heavy lifting.  
7 She does not feel she suffered any injury caring for

6 CROSS-EXAMINATION: (BY MS.)

7 She started caring for on  
8 12/15/09. She stopped that job on 10/7/10. She stopped  
9 working for due to problems with her left hand. With  
10 she worked approximately three to five hours a day, six days a  
11 week.

10 As part of her job duties caring for  
11 she prepared meals and did housework including  
12 dusting. She made his bed and did some sweeping. Sometimes  
13 she would get help from  
14 She was asked about the physicality of the sweeping and said  
15 that she did not bend over as they had a little machine. On  
16 occasion she would do dishes and on occasion she would do  
17 laundry. That was not every day. Sometimes did  
18 it. Those are the type of duties that were expected with  
19 She confirmed again she drove to doctor  
20 appointments. While working for  
21 she did not sweep every day before the accident. She found  
22 sweeping difficult after the accident. Part of her sweeping  
23 duties did require her to squat down. She found that difficult  
24 after the accident. While working for she did have pain  
25 in certain areas.

18 In May 2010 she was taken off work by At  
19 that time she was still working for  
20 She cared for up until 10/7/10.

20 REDIRECT EXAMINATION: (BY MS.)

21 The witness had problems doing sweeping while working  
22 for Before the first injury, she could do everything.  
23 After the injury, she was just taking care of herself. After  
24 the first injury, she began to be more careful, and  
25 would help her.

25 ///

1 REXCROSS-EXAMINATION: (BY MR. DIAZ DE LEON)

2 After her first accident at she started  
3 taking care of herself. She stopped some of the duties while  
4 carrying for She did not lift heavy items. Prior  
5 to the accident she would mop, but after the accident, she used  
6 a duster to clean the house. After the accident in May 2010,  
7 she did vacuum as part of her job duties, but the space was  
8 very small. After the May 2010 accident, she just slowed down  
9 and sometimes took her time doing things.

10 The pain she had arose after her injury at  
11 She was asked if her symptoms worsened due to her  
12 caring for and she testified no, and that remains  
13 her answer today.

14 REXCROSS-EXAMINATION: (BY MS.)

15 While working for both companies she cared for  
16 in the morning and later in the day went to work for

17 \* \* \*

18 DISPOSITION:

19 The parties have up to and including Tuesday,  
20 May 28, 2019 to submit post-trial briefs if they wish. The  
21 briefs must be filed and served on each other by that date.  
22 The case will be submitted on May 28, 2019.

23  
24  
25  
WORKERS' COMPENSATION ADMINISTRATIVE  
LAW JUDGE

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION

05-23-2019

PROOF OF SERVICE

Case Number:

RIVERSIDE	Law Firm,
RANCHO CUCAMONGA	Law Firm,
DIETZ GILMOR ONTARIO	Law Firm, 3333 CONCOURS ST BLDG 7 FL 2 ONTARIO CA 91764

Amended Minutes of Hearing & Summary of Evidence  
filed and served by US Mail on counsel and parties as indicated above.  
Date: 5/23/19  
By: