

STATE OF CALIFORNIA  
Division of Workers' Compensation  
Workers' Compensation Appeals Board

Case No. ADJ12124674

SALVADOR MARTINEZ,

*Applicant,*

vs.

OVERLAND CLEANING SERVICES;  
INS CO OF THE WEST WOODLAND HILLS

*Defendants.*

**FINDINGS OF FACT AND ORDER**

Law Office of G. John Jansen & Associates

By: John McKenna, Esq.

Attorneys for Applicant.

Law Offices of Bradford & Barthel

By: William K. Bartels, Esq.

Attorneys for Defendants.

The above-entitled matter having been heard and regularly submitted, the Honorable Simon Hovakimian, Workers' Compensation Administrative Law Judge, now decides as follows:

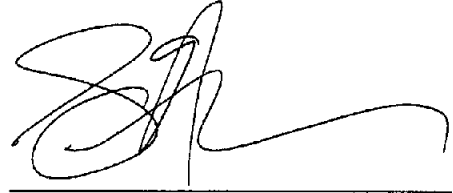
**FINDINGS OF FACT**

1. SALVADOR MARTINEZ was not employed by Overland Cleaning Services on 10/24/2018.
2. SALVADOR MARTINEZ born on 01-25-1976 while employed as a janitor in California, by OVERLAND CLEANING SERVICES, whose workers' compensation insurance carrier was INS CO OF THE WEST WOODLAND HILLS, did not sustain injury arising out of and occurring in the course of employment to his back.

**ORDER**

**IT IS ORDERED** that the applicant take nothing by way of this claim.

DATE: 9/30/2021



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**Simon Hovakimian**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

Served by mail on all parties listed on the proof of service on the above date.

BY: Erayna T

STATE OF CALIFORNIA  
Division of Workers' Compensation  
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CASE NUMBER: ADJ12124674

SALVADOR MARTINEZ

-vs.-

OVERLAND CLEANING  
SERVICES;

INS CO OF THE WEST  
WOODLAND HILLS;

WORKERS' COMPENSATION

ADMINISTRATIVE LAW JUDGE:

SIMON HOVAKIMIAN

ALLEGED DATE OF INJURY:

10/24/2018

**OPINION ON DECISION**

It should be noted that at the trial on 08/10/2021 the applicant was not present though represented by counsel. At that trial, a Notice of Intention to submit the matter on 09/07/2021 was issued unless good cause as to why the matter should not be submitted was filed. As of the writing of this Opinion on Decision, no objection has been received.

**ADMISSIBILITY OF EVIDENCE**

Applicant attorney wishes to admit the applicant's deposition transcript (exhibit 14) in lieu of testimony as the applicant was not present on the day of trial. Applicant attorney did not offer a good cause explanation as to why the applicant is legally unavailable for the trial. Therefore, exhibit 14 is not admitted into the record.

**EMPLOYMENT**

The applicant alleges employment with Overland Cleaning Services on the date of injury of 10/24/2018 with the parties submitting the applicant's paycheck stubs as a joint exhibit (exhibit X).

A review of this exhibit shows that the applicant worked for Overland Cleaning Services for broken periods from 07/02/2018 to 10/07/2018 with no paycheck showing the applicant worked on the date of injury of 10/24/2018. Therefore, without any additional paycheck stubs or the applicant's testimony, it is found that the applicant was not employment by Overland Cleaning Services on 10/24/2018.

INJURY AOE/COE

In the event it is found that the applicant was employed by Overland Cleaning Services on 10/24/2018, the applicant alleges injury to his back on this date. The instant claim was filed on or about 04/19/2019 with the parties stipulating that the defendant denied the claim on 05/30/2019. The applicant offers several medical reports but none of them rise to the level of being substantial as they are all PR-2's or Progress Reports with no discussion on the history of the injury, causation, diagnostic testing, etc. (exhibits 2-13) The only narrative report offered is a Secondary Treating Physician Initial Comprehensive Report by Dr. Bijan Nowarinezhad dated 05/09/2019 (exhibit 1). This report is not incorporated by the Primary Treating Physician and states that the applicant hurt himself by lifting a 60 pound trash can on 10/24/2018. It is well established that the testimony of the applicant is essential when there is a denied and disputed claim especially in the light of insubstantial medical evidence. Therefore, without the testimony of the applicant or substantial medical evidence, it is found that the applicant did not sustain injury to his back arising out of and occurring in the course of employment on 10/24/2018.

DATE: 9/30/2021



**Simon Hovakimian**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

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

09-30-2021

PROOF OF SERVICE –  
FINDINGS OF FACT & ORDER

Case Number: ADJ12124674

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TRI COUNTY MEDICAL  
GROUP LOS ANGELES

Lien Claimant, 338 N WESTERN AVE LOS ANGELES CA 90004

SERVED: 9.30.21

By: *Erayna T*