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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

Nazlja DJUKANOVIC, Appellant-Respondent,

v.

METROPOLITAN CLEANING LLC et al., Respondents-Appellants.

Workers' Compensation Board, Respondent.

November 7, 2019

- Facts:** Cross appeals from a decision of the Workers' Compensation Board, filed May 18, 2018, which, among other things, ruled that claimant was barred from receiving further workers' compensation benefits pursuant to Workers' Compensation Law §29.
- Holding:** *Appeal and cross appeal are dismissed, as moot.*
- Discussion:** Claimant commenced a third-party action related to her work-related injuries but signed and filed a stipulation of discontinuance of the third-party action. The discontinuance was without the carrier's consent the carrier suspended benefits. The Workers' Compensation Board originally found that while the discontinuance was without the carrier's consent, it also found that the carrier had improperly stopped making benefits payments without requesting a hearing on the issue. The claimant was awarded 20 weeks of benefits and a penalty assessed against the carrier. The Full Board affirmed the finding that claimant was ineligible to collect future benefits due to discontinuing the third-party action without the consent of the carrier but modified the prior decision by reducing the amount owed claimant to 14 weeks of benefits and reducing the penalty against the carrier. Claimant appeals, as does the employer and the carrier collectively. Subsequently, the Board issued a new decision which amended and superseded the decision rendering the appeal and cross appeal moot.