

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

ZACHARY PENPRASE, *Applicant*

vs.

**PHILADELPHIA PHILLIES; ACE AMERICAN INSURANCE, administered by
SEDGWICK; FARGO-MOOREHEAD REDHAWKS, administered by
WORKFORCE SAFETY AND INSURANCE, *Defendants***

**Adjudication Number: ADJ17606447
Santa Ana District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR RECONSIDERATION**

Applicant seeks reconsideration of the August 14, 2025 Findings and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a professional athlete from June 1, 2006 to October 1, 2015, claims to have sustained industrial injury to his head, neck, back, thighs, bilateral shoulders, bilateral wrists, bilateral hands, bilateral fingers, bilateral legs, bilateral knees, bilateral ankles, bilateral toes, feet, internal, ENT/TMG, neurological, psyche, and sleep. The WCJ found that the court lacked personal jurisdiction over the Philadelphia Phillies and the Fargo-Moorehead Redhawks.

Applicant contends that the court has personal jurisdiction over both the Philadelphia Phillies and by the Fargo-Moorehead Redhawks because both teams hired recruited and hired applicant in California.

We have received an Answer from defendant Philadelphia Phillies and from the Fargo-Moorehead Redhawks. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, both Answers, and the contents of the Report, and we have reviewed the record in this matter. Based upon our preliminary review of the record, we will grant applicant's Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after

reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.

I.

We highlight the following legal principles that may be relevant to our review of this matter. The WCJ's Opinion on Decision sets forth the relevant factual background as follows:

Here, the Applicant's un rebutted and credible testimony revealed that he was drafted by the Philadelphia Phillies in 2006 and played with them for approximately two years. (MOH/SOE, 04/23/2025, page 2 lines 24-25). The Applicant then signed with Fargo Morehead, Redhawks, and during his first season, he was signed by the Boston Red Sox. He played with the Red Sox for a month and then played seven more years with the Redhawks after that. The major league teams he played with were the Philadelphia Phillies and the Boston Red Sox (MOH/SOE, 04/23/2025, Page 3, lines 1- 3).

During the draft in 2006, he was located at his parent's home in California. Specifically, he was in his parents' bedroom, looking at the computer sitting on their bed in Moorpark, California. The Applicant spent his summers at his parent's home when his college season was over (MOH/SOE, 04/23/2025, Page 3, lines 6 – 9). The Applicant signed an employment contract with the Phillies. A scout came to his house. His parents were with him when he signed the contract. On the date of the signing, he captured that moment with a photograph. The Applicant's father took a picture of the Applicant and the Applicant's mother with Mr. Stauffer (MOH/SOE, 04/23/2025, Page 3, lines 10 – 13).

(Opinion on Decision, at p. 7.)

Applicant asserts that because he was recruited by, and signed contracts with, both the Philadelphia Phillies and the Fargo-Moorehead Redhawks while within the territorial borders of California, there are sufficient contacts with both teams to warrant the exercise of personal jurisdiction. (*Id.* at p. 7:20.)

Defendant Philadelphia Phillies aver that under Supreme Court precedent in *Bristol-Myers Squibb Company v. Superior Court of the State of California* (2017) 137 S. Ct. 1773, 1779, the analysis of personal jurisdiction is no longer limited to whether the defendant had minimum contacts with the proposed forum, but must also assess whether “the claim at issue arises out of, or relates to, the out-of-state Defendant’s conduct within the forum state and ‘there must be an

affiliation between forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the States's regulation.” (Phillies’ Answer, at p. 5:8.) Notwithstanding a California contract of hire, the Phillies assert that they “undertook no action to direct the Applicant to California to perform work,” and accordingly, there can be no activity in the forum State that serves to form the required direct connection between California and the work injury claimed. (*Id.* at p. 7:28.)

Defendant Fargo-Moorehead Redhawks Baseball similarly argue that a “contract alone does not automatically establish minimum contacts in the plaintiff’s home forum.” (Redhawks Answer, at p. 4:10, citing *Picot v. Weston* (2015) 780 F.3d 1206 [2015 U.S. App. LEXIS 4437].)

The WCJ’s Report observes that “other than signing the one contract in California with the Philadelphia Phillies and a few contracts in California with the Fargo-Moorehead Redhawks, the evidence was void of any other contact with California. There were no games played in California, there were no workouts in California or any other contact with California in order to confer personal jurisdiction over the Philadelphia Phillies nor the Fargo-Moorehead Redhawks.” (Report, at p. 4.) Accordingly, the WCJ recommends we affirm the F&O.

A California court may exercise jurisdiction over a nonresident defendant only within the perimeters of the due process clause as delineated by the decisions of the United States Supreme Court. (*Martin v. Detroit Lions, Inc.* (1973) 32 Cal.App.3d 472, 475 [1973 Cal.App. LEXIS 991], citing *International Shoe Co. v. State of Washington*, 326 U.S. 310 [66 S.Ct. 154] and *Michigan Nat. Bank v. Superior Court*, 23 Cal.App.3d 1, 6 [99 Cal.Rptr. 823]; Code Civ. Proc., § 410.10.) Due process requires that a defendant have certain minimum contacts with a state so that the maintenance of an action in the state does not offend traditional notions of fair play and substantial justice. (*McKinley v. Arizona Cardinals* (2013) 78 Cal.Comp.Cases 23, 26 [2013 Cal. Wrk. Comp. LEXIS 2]; *Buckner v. Industrial Acci. Com.* (1964) 226 Cal.App.2d 619, 623) [1964 Cal.App.LEXIS 1319].)

Personal jurisdiction is not determined by the nature of the action, but by the legal existence of the party and either its presence in the state or other conduct permitting the court to exercise jurisdiction over the party. Subject matter jurisdiction, by contrast, is the power of the court over a cause of action or to act in a particular way. (*Greener v. Workers’ Comp. Appeals Bd. of California* (1993) 6 Cal.4th 1028 [58 Cal.Comp.Cases 793, 795].) In order to exercise personal jurisdiction over a nonresident defendant, “a particular cause of action must arise out of or be

connected with the defendant's forum-related activity.” (*Buckeye Boiler Co. v. Superior Court of Los Angeles County* (1969) 71 Cal.2d 893, 899 [80 Cal.Rptr. 113].) “[S]pecific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.” (*Bristol-Myers Squibb Co. v. Superior Court, supra*, 137 S.Ct. 1773, 1780.)

On the other hand, however, the defense of a lack of personal jurisdiction may be waived by a party making a general appearance. (See, e.g. *Roy v. Superior Court* (2005) 127 Cal.App.4th 337, 341 [25 Cal.Rptr.3d 488], “it has long been the rule in California that a party waives any objection to the court’s exercise of personal jurisdiction when the party makes a general appearance in the action.”) Here, we must determine whether the “maintenance of an action in the state does not offend traditional notions of fair play and substantial justice,” and, in addition, whether there has been a waiver by a party to the court’s exercise of personal jurisdiction via the entry of a general appearance. (*McKinley v. Arizona Cardinals, supra*, 78 Cal.Comp.Cases 23, 26.)

Decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCJ’s decision. (Lab. Code, § 5313.) “It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence.” (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) The WCJ’s decision must “set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]).)

Additionally, the WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers’ Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to “ensure substantial justice in all cases.” (*Kuykendall v. Workers’ Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave

matters undeveloped where it is clear that additional discovery is needed. (*Id.* at p. 404.) Here, based on our preliminary review, it appears that further development of the record may be appropriate.

II.

In addition, under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (*Great Western Power Co. v. Industrial Acc. Com. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of “[throwing] the entire record open for review.” (*State Comp. Ins. Fund v. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal.2d 360, 364.) “[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.”; see generally Lab. Code, § 5803 [“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”].)

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen's Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals*

Bd. (Kramer) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Labor Code section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. ...

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code sections 5950 et seq.

III.

Accordingly, we grant applicant’s Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

For the foregoing reasons,

IT IS ORDERED that applicant’s Petition for Reconsideration of the Findings and Order issued by a workers’ compensation administrative law judge on August 14, 2025 is **GRANTED**.

IT IS FURTHER ORDERED that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 10, 2025

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

**ZACHARY PENPRASE
PRO ATHLETE LAW GROUP
PARK|GUENTHART
BOBER PETERSON & KOBY**

SAR/abs

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