WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

BROCK PETERSON, *Applicant*

vs.

LOS ANGELES DODGERS; NEW YORK METS; MINNESOTA TWINS, WASHINGTON NATIONALS, ST. LOUIS CARDINALS; ACE AMERICAN INSURANCE COMPANY, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants*

Adjudication Numbers: ADJ19384154; ADJ20829009
Santa Ana District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Defendant Los Angeles Dodgers ("Dodgers") has petitioned for reconsideration of the Findings of Fact and Findings and Order ("F&O") issued by the workers' compensation administrative law judge ("WCJ") on March 2, 2026, wherein the WCJ found that applicant's cumulative injury claim is not barred by Labor Code[1] section 3600.5, subdivisions (c) and (d). The Dodgers assert that the WCJ erred because they did not hire applicant in California and they meet the requirements for exemption under section 3600.5, subdivision (c).

We received an Answer. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the Petition, the Answer, and the contents of the Report. Based upon our preliminary review of the record, we will grant the Petition. Our order granting the Petition 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 section 5950 et seq.

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[1] All further references are to the Labor Code unless otherwise noted.

I.

Former section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on April 8, 2026, and 60 days from the date of transmission is Sunday, June 7, 2026. The next business day that is 60 days from the date of transmission is Monday, June 8, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, June 8, 2026, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

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[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on April 8, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on April 8, 2026.

II.

Preliminarily, we note the following in our review:

This case involves a cumulative trauma injury claim to multiple body parts, sustained over the course of applicant's career as a professional athlete while working for multiple employers from January 7, 2010 through September 15, 2015. It is uncontested that the Dodgers employed applicant during a portion of his last year as a professional athlete, and that there is personal jurisdiction over the Dodgers.

The remaining employers – the New York Mets ("Mets"), the Minnesota Twins ("Twins"), the Washington Nationals ("Nationals") and the St. Louis Cardinals ("Cardinals") have all appeared specially to contest personal jurisdiction, though it appears that the Cardinals have conceded that there is personal jurisdiction over them as well. (See Defendants' Trial Brief, at p. 1 ["It does appear there is personal jurisdiction over the Cardinals based on applicant's testimony that he worked in California briefly for the Cardinals in 2012."].)

The matter went to trial on three issues: (1) subject matter jurisdiction over the case; (2) personal jurisdiction over each defendant; and (3) whether any defendant is exempt according to section 3600.5. (Minutes of Hearing / Summary of Evidence ("MOH/SOE"), 9/9/2025, at p. 2.) Applicant was the sole witness to testify. (MOH/SOE, 11/10/2025, at pp. 2–11.)

The WCJ issued his F&O on March 2, 2026, finding as relevant to this Petition (1) personal jurisdiction over the Dodgers, and (2) that section 3600.5, subdivisions (c) and (d) do not bar applicant's claim. The appended Opinion on Decision makes clear that the WCJ based his finding on the rationale that the Dodgers, a California-based employer, employed applicant during the last year of his professional career. (Opinion on Decision, at pp. 6–8.) The F&O deferred the question of personal jurisdiction over the other defendants. (F&O, at p. 3.)

The instant Petition for Reconsideration followed.

In general, the Workers' Compensation Appeals Board ("WCAB") may assert its subject matter jurisdiction in a given workers' compensation injury claim when the evidence establishes that an employment related injury, which is the subject matter, has a significant connection or nexus to the state of California. (See §§ 5300, 5301; *King, supra,* 270 F.2d at 360; *Federal Insurance Co. v. Workers' Comp. Appeals Bd.* (*Johnson*) (2013) 221 Cal.App.4th 1116, 1128.) Whether there is a significant connection or nexus to the State of California is best described as an issue of due process, though it has also been referred to as a question of subject matter jurisdiction. (*New York Knickerbockers v. Workers' Comp. Appeals Bd.* (*Macklin*) (2015) 240 Cal.App.4th 1229, 1238; *Johnson, supra,* 221 Cal.App.4th at 1128.)

Section 5300 provides a general grant of jurisdiction over claims for compensation for work-related injuries occurring in the state of California. In addition, the WCAB can also assert subject matter jurisdiction over injuries occurring outside this state in certain circumstances. Section 3600.5, subdivision (a) states: "If an employee who has been hired or is regularly working in the state receives personal injury by accident arising out of and in the course of employment outside of this state, he or she, or his or her dependents, in the case of his or her death, shall be entitled to compensation according to the law of this state." (§ 3600.5(a).) Similarly, section 5305 states: "The Division of Workers' Compensation, including the administrative director, and the appeals board have jurisdiction over all controversies arising out of injuries suffered outside the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state." (§ 5305.)[3]

Beginning in 2013, under certain circumstances additional requirements apply to professional athletes filing workers' compensation claims involving occupational disease or cumulative trauma injuries. Section 3600.5(d) provides as follows:

> (1) With respect to an occupational disease or cumulative injury, a professional athlete and his or her employer shall be exempt from this division when all of the professional athlete's employers in his or her last year of work as a professional athlete are exempt from this division pursuant to subdivision (c) or any other law, unless both of the following conditions are satisfied:

[3] The residency requirement of section 5305 has long been recognized as unconstitutional. (See *Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 20, fn. 6 [64 Cal.Comp.Cases 745].)

(A) The professional athlete has, over the course of his or her professional athletic career, worked for two or more seasons for a California-based team or teams, or the professional athlete has, over the course of his or her professional athletic career, worked 20 percent or more of his or her duty days either in California or for a California-based team. The percentage of a professional athletic career worked either within California or for a California-based team shall be determined solely by taking the number of duty days the professional athlete worked for a California-based team or teams, plus the number of duty days the professional athlete worked as a professional athlete in California for any team other than a California-based team, and dividing that number by the total number of duty days the professional athlete was employed anywhere as a professional athlete.

(B) The professional athlete has, over the course of his or her professional athletic career, worked for fewer than seven seasons for any team or teams other than a California-based team or teams as defined in this section.

(2) When subparagraphs (A) and (B) of paragraph (1) are both satisfied, liability for the professional athlete's occupational disease or cumulative injury shall be determined in accordance with Section 5500.5.

(§ 3600.5(d).)

As section 3600(d)(1) makes clear by reference, an important provision for determining the meaning of section 3600.5(d) is section 3600.5(c).

Section 3600.5(c) provides as follows:

(1) With respect to an occupational disease or cumulative injury, a professional athlete who has been hired outside of this state and his or her employer shall be exempted from the provisions of this division while the professional athlete is temporarily within this state doing work for his or her employer if both of the following are satisfied:

(A) The employer has furnished workers' compensation insurance coverage or its equivalent under the laws of a state other than California.

(B) The employer's workers' compensation insurance or its equivalent covers the professional athlete's work while in this state.

(2) In any case in which paragraph (1) is satisfied, the benefits under the workers' compensation insurance or similar laws of the other state, and other remedies under those laws, shall be the exclusive remedy against the employer for any occupational disease or cumulative injury, whether resulting in death or not, received by the employee while working for the employer in this state.

> (3) A professional athlete shall be deemed, for purposes of this subdivision, to be temporarily within this state doing work for his or her employer if, during the 365 consecutive days immediately preceding the professional athlete's last day of work for the employer within the state, the professional athlete performs less than 20 percent of his or her duty days in California during that 365-day period in California.

(§ 3600.5(c).) This statutory provision applies to a cumulative trauma claim asserted by a professional athlete who is hired in a state other than California, when that athlete is temporarily doing work in California. (See, e.g., *Carroll v. Cincinnati Bengals* (2013) 78 Cal.Comp.Cases 655, 660 (Appeals Board en banc); *Dailey v. Dallas Carriers Corp.* (1996) 43 Cal.App.4th 720, 727.)

The Legislature also included a note of intent, stating that the 2013 amendments to section 3600.5 should "have no impact or alter in any way the decision of the court in [*Bowen]*." (Stats. 2013 ch. 653 (AB 1309) § 3.). Because *Bowen* affirmed the exercise of jurisdiction based upon a hire in California, we previously held that subdivisions (c) and (d) of section 3600.5 did not apply to claims filed by professional athletes who could establish hire in California by at least one of their employers during the cumulative trauma injury period, even if they were not hired in California during the last year of their career. (See, e.g., *Hansell v. Arizona Diamondbacks* (2022) 87 Cal. Comp. Cases 602, 611–618; *Kouzmanoff v. Texas Rangers* (2024) 2024 Cal. Wrk. Comp. P.D. LEXIS 189.)

However, in *Atlanta Falcons v. Workers' Comp. Appeals Bd.* (*Gandy*) (2025) 114 Cal.App.5th 1268 [90 Cal.Comp.Cases 997] ("*Gandy*"), the Court of Appeal disagreed with our interpretation of section 3600.5, subdivisions (c) and (d), instead holding that both subdivisions apply to all claims filed by professional athletes after the effective date, even those where the professional athlete was hired in California during the cumulative trauma injury period by a prior employer. (*Gandy, supra,* 114 Cal.App.5th at p. 1278.) *Gandy* also provided the following statement regarding when a professional athlete should be deemed to have been hired in California, even if normal principles of contract formation would suggest that the hire occurred elsewhere:

> Significantly, in determining whether a particular contract is a California contract for hire, California courts ordinarily apply a liberal construction of both the law *and the facts* in favor of finding California jurisdiction. ([*Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 25].) **The *Bowen* court explained through a series of examples that this rule allows even a relatively minimal connection between the contract and the State of California to be**

> **sufficient to construe the contract as a California contract for hire, even if the typical rules of contract interpretation would deem the contract to have been made somewhere else. (*Id.* at pp. 20–25.) Accordingly, it is unlikely a California-based team would *ever* be determined to have entered a non-California contract for hire, for the simple reason that the California-based team's location in California would supply the necessary connection to California to deem the contract a California contract.**

(*Gandy, supra,* 1144 Cal.App.5th at 1280 (bold added; italics original).)

Here, the Dodgers assert they are exempt according to section 3600.5, subdivision (c). Significantly, that subdivision depends upon the applicant having been hired outside of California by allegedly exempt employer, in this case the Dodgers. *Gandy* appears to suggest that if applicant was hired by the Dodgers, he should be deemed to have been hired in California, because the Dodgers are a California-based team. However, we are concerned that there may be a lack of substantial evidence in the record to determine whether and by what means applicant was hired by the Dodgers when he was traded to them by the Nationals. We are also concerned as to whether there is substantial evidence in the record to determine whether applicant performed any work for the Dodgers in California during his last year of employment, such that section 3600.5, subdivision (c) could potentially apply to his claim at all. Further consideration of the entire record in light of the applicable statutory and decisional law is required in order to determine the best way to resolve these questions.

III.

Finally, we observe that 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) 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; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593.) 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; *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"].)

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 Petitions 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.

IV.

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

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Findings of Fact and Findings and Order issued on March 2, 2026 by the workers' compensation administrative law judge is **GRANTED**.

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 4, 2026

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

BROCK PETERSON
LAW OFFICE OF LYSETTE RIOS, APC
BOBER, PETERSON & KOBY, LLP

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