

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

**KAELIN BURNETT, *Applicant***

**vs.**

**SAN DIEGO FLEET; ARIZONA HOTSHOTS; TRAVELERS INDEMNITY COMPANY;  
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ14277429  
Anaheim District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation arbitrator with respect thereto. Based on our review of the record, and for the reasons stated in the arbitrator's report, which we adopt and incorporate, we will deny reconsideration.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**I CONCUR,**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**/s/ NATALIE PALUGYAI, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**October 23, 2023**

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

**KAELIN BURNETT  
LEVITON, DIAZ & GINOCCHIO  
DIMACULANGAN AND ASSOCIATES  
STATE COMPENSATION INSURANCE FUND  
BOBER, PETERSON & KOBY  
MARK L. KAHN, ARBITRATOR**

**SAR/abs**

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

# ARBITRATOR'S REPORT AND RECOMMENDATION ON RECONSIDERATION

## I.

### INTRODUCTION

The above-captioned matter was set for Arbitration on June 26, 2023, before Mark L. Kahn, Arbitrator, on the issue of insurance coverage.

The parties having reached Stipulations, and Issues, admitted Exhibits into evidence, and testimony having been taken and the parties having agreed to submit the matter on the present record, the Arbitrator found and ordered as follows:

On August 1, 2023, the Arbitrator issued the following Findings and Orders:

1. The Arbitrator found based on the Stipulations of the parties as follows[:] (A) that the applicant was employed by the AAF Players, LLC team, Arizona Hotshots, from January of 2019 through May 31, 2019; (B) that the applicant signed a contract with the Arizona Hotshots of the AAF Players, LLC on January 8, 2019, in California; (C) the applicant's attorney has filed the Application in California based on jurisdiction in California based on the contract of [hire] being made in the state of California; (D) the applicant never played any games, practiced or engaged in the team activities in California while employed by the AAF Players, LLC team, Arizona Hotshots; (D) The applicant was never employed by the AAF Players, LLC team, San Diego Fleet.
2. The Arbitrator found that the two insurance policies of State Compensation Insurance Fund (hereinafter "SCIF") and Travelers, that SCIF was insuring the San Diego Fleet football team and Travelers was insuring the Arizona Hotshots football team.
3. The Arbitrator found that it was the intent of AAF Players, LLC and SCIF and Travelers, that SCIF issued the policy covering the California team (San Diego Fleet), and Travelers issued a policy covering the team Arizona (the Arizona Hotshots).
4. The Arbitrator, therefore, found the insurance policy issued by SCIF covers the San Diego Fleet football team and its employees, and the Travelers policy covers the Arizona Hotshots football team and their employees.
5. The Arbitrator found that the insurance policy issued by Travelers would cover applicant's injury because, at the time of the injury, he was an employee of the Arizona Hotshots.

6. The Arbitrator found the limitations in the Travelers policy to Georgia, Arizona, Tennessee and Alabama indicated they were only cover the teams in those four states and not other teams of the AAF Players, LLC.
7. The Arbitrator found that there was no exclusion for an injury that occurred in California when the applicant was temporarily working in California pursuant to the other states provision of the policy (in this case, the applicant never temporarily work in California and this part of the policy does not apply) and there was no exclusion where contract of hire was made in California for an applicant who was an employee of the Arizona Hotshots.
8. The Arbitrator found that there is no valid exclusion or any exclusion in the Travelers policy that the policy did not apply to an employee of the Arizona Hotshots if the contract of [hire] was made in another state, including California.
9. The Arbitrator found that the SCIF policy was only written to cover the San Diego Fleet team in California and would not cover an employee of the Arizona Hotshots who was hired by the Arizona Hotshots, played for the Arizona Hotshots, never played a game or practiced in California, and only filed this case in California based on the contract of [hire] being made in California.
10. The Arbitrator found there was no evidence introduced that the Arizona Hotshots of the AAF league was appraised that if a contract of [hire] was made in California, the Arizona policy would not cover an employee of the Arizona Hotshots.
11. The Arbitrator found that the SCIF policy only covers the San Diego Fleet of the AAF Players, LLC and the applicant was never an employee of the San Diego Fleet, the Arbitrator finds that the policy issued by SCIF would not cover an employee of the Arizona Hotshots who comes under California jurisdiction based on a contract of [hire] in California.
12. The Arbitrator found the insurance policy issued by Travelers covers the employees of the Arizona Hotshots and the applicant was an employee of the Arizona Hotshots during the continuous trauma period and would cover the injury of the applicant in California and would not be excluded because the contract of [hire] was made in California even though the applicant was employed in Arizona for his entire period of employment.
13. The Arbitrator found the SCIF policy when read as a whole only intended to cover the AAF Players for the San Diego Fleet team. SCIF never intended to cover any other team. SCIF

is prohibited by law from writing policies other than for companies doing business in the state of California.

14. The Arbitrator found that there was no exclusion in the insurance policy issued by Travelers to the Arizona Hotshots for an applicant temporarily in the state of California when injured on employer business (Other States Coverage), not at issue here, and also there was no exclusion in the policy that provided that an employee of the Arizona Hotshots who comes under California jurisdiction because the contract of [hire] was made in California is excluded from the policy.
15. The Arbitrator found that the exclusion in Travelers policy made it clear that the Travelers policy only covered the teams in the four states mentioned in the policy and covered the Arizona Hotshots.
16. The Arbitrator found there is no exclusion contained in the policy issued by Travelers that would exclude the applicant from coverage by the policy. The Arbitrator found no exclusion in the policy issued by Travelers that would exclude applicant's injuries while employed with the Arizona Hotshots because the contract of [hire] was made in California.

The Arbitrator issued the following Orders on August 1, 2023:

1. Based on the findings above, the Arbitrator ordered that the insurance policy issued by Travelers to the Arizona Hotshots is responsible for applicant's claim.
2. Based on the findings above, the Arbitrator ordered that SCIF is responsible for applicant's claim and, therefore, is dismissed as a party defendant in this case.

Defendant, Travelers, now files this Petition for Reconsideration on the following grounds:

1. The insurance policy issued by Travelers only covers injuries in the states of Alabama, Arizona, Georgia and Tennessee and does not cover a case filed in California.
2. The insurance policy issued by Travelers does not constitute workers' compensation insurance in the state of California as a matter of law.
3. The Arbitrator erred in analyzing the Travelers policy and coverage was only provided for Georgia, Arizona Alabama and Tennessee. The Arbitrator intertwined the subject matter jurisdiction with insurance coverage in California.

4. The insurance policy issued by Travelers to the AAF Players, LLC does not constitute workers' compensation coverage in California for the policy period of December 7, 2018 through December 7, 2019. The policy must be read in whole and coverage cannot be found by disregarding specific unambiguous language as to the coverage limitations.

## **II. FACTS**

Applicant, Kaelin Burnett, filed an Application for Adjudication of Claim alleging a continuous trauma injury from September 1, 2012 through April 20, 2020, while employed as a professional football player by various professional teams and claims to have sustained injury to various body parts. (Stipulations 1)

The applicant was employed by the AAF Players, LLC team, Arizona Hotshots, from January of 2019 through May 31, 2019, and was employed by the XFL team, Houston Roughnecks, in 2020. (Stipulations 2)

The applicant never played any games, practiced, or engaged in team activities in California while employed by the AAF Players, LLC, Arizona Hotshots. (Stipulation 3)

The applicant was never employed by the AAF Players, LLC team, San Diego Fleet. (Stipulation 4)

The applicant's attorney filed the Application in California based on jurisdiction in California based on the contract of [hire] being made in the state of California. (Stipulation 6)

Travelers issued a Georgia "Assigned Risk Policy" to the Alliance of American Football for the period December 7, 2018 through December 7, 2019. The Georgia Assigned Risk Policy expressly allocated coverage within the state laws of the states of Georgia, Arizona, Alabama and Tennessee.

SCIF issued an insurance policy to the AAF Players, LLC at 149 New Montgomery Street, San Francisco, CA 94105. The insurance policy provides it does not insure the Atlanta Legends; Georgia, unknown; Memphis Express Tennessee, unknown; Arizona Hot Spots; Arizona unknown; Birmingham Iron; Alabama, unknown and indicates the excluded employees are insured by Travelers referring to policy number UB1K755538. The policy was effective December 11, 2018 and expired on February 11, 2019.

The matter proceeded to Arbitration on the issue of whether or not the insurance policies issued by Travelers for the Alliance of American Football in 2019 and by SCIF in 2019 provided California Workers' Compensation Insurance for applicant's claimed injury.

The Arbitrator found the insurance policy issued by Travelers covered the injury of the applicant and the policy issued by SCIF's policy did not cover the injury of the applicant. It is from that decision that Travelers now seeks reconsideration on the grounds set forth above.

### **III. DISCUSSION**

#### **A.**

#### **ISSUES**

Travelers argued at the Arbitration their insurance policy did not cover the applicant because it only covered injuries that occurred in the states of Arizona, Alabama, Arizona, Georgia and Tennessee and not an injury filed in California based on contract of hire in California. Travelers further argued the policy issued by SCIF covered the applicant's injury as that policy covered California injuries of the football league.

SCIF argued that their insurance policy only covered the team in San Diego and since the applicant was not an employee of the San Diego team, their insurance policy would not cover the applicant in this case, an employee of the Arizona Hotshots who only filed in California based on the contract of hire in California. SCIF further argued that the insurance policy issued by Travelers covered applicant's injury because SCIF indicates the excluded employees are insured by Travelers referring to policy number UB1K755538.

If neither the Travelers insurance policy nor the SCIF policy covered the injury of the applicant, there would be no insurance for his injury.

This Arbitration did not deal with the issue of jurisdiction and that issue was not decided by the Arbitrator.

The parties stipulated the applicant was an employee of the Arizona Hotshots and that is the team they are filing against in the state of California.

**B.**  
**FACTS**

The AAF Players, LLC is a football league which consisted of teams in California, Georgia, Alabama, Tennessee and other states.

The applicant was employed by the AAF Players, LLC team, Arizona Hotshots, from January of 2019 through May 31, 2019, and was employed by the XFL team, Houston Roughnecks, in 2020.

The applicant signed a contract with the Arizona Hotshots of the AAF Players, LLC on January 8, 2019 in California.

The applicant's attorney has filed the Application in California based on jurisdiction in California and based on the contract of the [hire] being made in the state of California. The applicant never played any games, practiced, or engaged in team activities in California while employed by the AAF Players, LLC team, Arizona Hotshots.

The applicant was never employed by the AAF Players, LLC team, San Diego Fleet.

The issue of jurisdiction is not before this Arbitration and the parties stipulated to the issue of employment.

**C.**  
**FINDINGS**

The Arbitrator found the applicant's injury was covered by the insurance policy issued by Travelers because that policy covered the Arizona Hotshots, which is the employer of the applicant in this case.

The Arbitrator found that SCIF policy had no coverage as their insurance policy only covered the San Diego team and the applicant was not employed by the San Diego team at the time of his alleged injury.

**TRAVELERS POLICY**

The Arbitrator found the insurance policy issued by Travelers was issued to the Arizona Hotshots and the applicant was an employee of the Arizona Hotshots at the time of his injury and



the insurance policy issued by Travelers contained no exclusion endorsement for a contract of hire made in California.

The insurance policy was not well written and did not [refer] to any specific teams, only the states of Arizona, Alabama, Arizona, Georgia and Tennessee.

In the opinion of the Arbitrator, the referral to these four states in the policy was not an indication the policy was only covering injuries in those four states, however, was referring to the fact that the Travelers policy covered the football teams in those four states.

The fact the referral to these four states in the policy was not an indication the policy was only covering injuries in those four states, however, was referring to the fact that the Travelers policy covered the football teams in those four states is confirmed by the testimony of Kimberly Rene Amal who testified as summarized below as the expert called for Travelers that the insurance policy covered the Arizona hotshot football team. Kimberly Rene Amal testified she is currently a partner in law firm of Aguilera Law Group. She heads the insurance coverage department. The insurance policy written by Travelers lists the insured as AAF Players, LLC, DBA Alliance of American Football. The policy period is December 7, 2018 through December 7, 2019. The policy then sets forth and includes the kinds of this bodily injury disease, which is the kind which we are talking about here because is a cumulative trauma injury.

Part B of the policy states the policy will promptly pay benefits required by the workers' compensation law. The witness admitted the Travelers policy covered the AAF Players, LLC, Arizona Hotshots. It covered those employees in Arizona. The Arizona Hotshots are a football team. A football player can be injured in any state where they play. The insurance policy was written to provide coverage for AAF Players, LLC for workers' compensation claims in the state of Arizona and any state where they played.

Therefore, the Arbitrator found that the mention of the four states in the policy was not a restriction, but rather an indication the policy covered the football teams that were housed in those four states. That is the reason the witness admitted the insurance policy covered the Arizona Hotshots.

In the opinion of the Arbitrator, the mention of the four states in the policy was not indication they would only cover injuries in those for states, but rather that they were covering the football teams in those four states, one of which was the Arizona Hotshots.

Therefore, the Arbitrator came to the conclusion that the insurance policy issued by Travelers was clearly a policy covering the employees of the Arizona Hotshot and, in the opinion of the Arbitrator, the mention of the state of Arizona indicated the policy covered the football team in that state, the Arizona Hotshots, and was not an exclusion only to an injury occurring in that state.

This was further supported by the testimony of the witness who indicated that if the applicant had been playing a game in California and was temporarily there on business as an employee of the Arizona Hotshots, the policy would cover the injury.

In the opinion of the Arbitrator, once it is determined that the Travelers policy covers the employees of the Arizona Hotshots, which employment is admitted in this case, the policy would only not cover the applicant's injury if there was a valid exclusion.

The facts of this case establish that the basis of California jurisdiction is being claimed based on a contract of hire in California. The Arbitrator found nothing in the policy that excluded a contract of hire made in California as not being covered for an otherwise covered employee of the Arizona Hotshots.

The Arbitrator further came to these conclusions based on the following:

It was stipulated by the parties that the applicant was employed by the AAF Players, LLC team, Arizona Hotshots, from January of 2019 through May 31, 2019, and was employed by the XFL team, Houston Roughnecks, in 2020.

It was further stipulated that the applicant signed a contract with the Arizona Hotshots of the AAF Players, LLC on January 8, 2019, in California.

SCIF issued an insurance policy to the AAF Players, LLC at 149 New Montgomery Street, San Francisco, CA 94105. The policy indicates on Page 1 that it does not insure the Atlanta Legends; Georgia, unknown, Memphis Express Tennessee, unknown; Arizona Hot Spots; Arizona, unknown; Birmingham Iron; Salt Lake Stallions; Houston, unknown; San Antonio Commanders Texas, unknown; and Alabama, unknown. The policy indicates that the excluded employers are insured by Travelers policy number UB1K755538.

Kimberly Rene Amal testified that SCIF insured the AAF Players, LLC team located in California named the San Diego Fleet. They were approached by their broker to insure the operations of the single football team located in California, named the San Diego Fleet. The scale of the operations equated to a single team. Insurance coverage was bound from December 11, 2019

through March 1, 2019 and from March 1, 2019 through April 17, 2019. The other AAF Players, LLC teams located outside of California were insured by other insurance policies. SCIF could not insure operations based in Arizona. SCIF has no license to write insurance Arizona. The policy excludes teams located in Georgia, Tennessee, Arizona and Alabama. The excluded employers were insured by Travelers.

Travelers issued an insurance policy to the AAF Players, LLC DBA Alliance of American Football, 149 New Montgomery Street, San Francisco, CA 94105. The policy indicated applies to workers' compensation laws of Alabama, Arizona, Georgia and Tennessee.

Vanessa Lynn Zamora testified the Travelers policy covered the AAF Players, LLC, Arizona Hotshots. It covered those employees in Arizona. The Arizona Hotshots are a football team. A football player can be injured in any state where they play.

A review of the two insurance policies of SCIF and Travelers make it clear that SCIF was issuing an insurance policy covering the San Diego Fleet football team and Travelers was insuring the Arizona Hotshots football team.

The evidence establishes and the policy states that SCIF issued an insurance policy to the AAF Players, LLC covering their team in California. The only team in California was the San Diego Fleet.

The evidence establishes that Travelers issued an insurance policy to the AAF Players, LLC covering their teams in Arizona, Georgia, Tennessee and Alabama.

For the purpose of this case, the only part of the Travelers policy we are interested in is the policy covering the AAF Players, LLC team in Arizona (Arizona Hotshots).

It was the intent of AAF Players, LLC and SCIF and Travelers, that SCIF issued the policy covering the California team (San Diego Fleet) and Travelers issued a policy covering the team in Arizona (the Arizona Hotshots).

It is clear from reading the insurance policy issued by SCIF and the law of the state of California that they can only write insurance for businesses in California and that SCIF policy only covered the AAF Players, LLC in California, the San Diego Fleet.

It is from reading of the insurance policy issued by Travelers to the AAF Players, LLC that the policy covered the employees of the Arizona Hotshots.

It was not the intent of the two insurance policies that they would not cover any other of the AAF Players, LLC teams in other states other than set forth their respective policies. The

Arbitrator, therefore, found the insurance policy by SCIF covers the San Diego Fleet football team and its employees and the Travelers policy covers the Arizona Hotshots football team and their employees.

The Arbitrator found the insurance policy issued by Travelers covered the team, the AAF Players, LLC, Arizona Hotshots, in California.

The parties stipulated the applicant was an employee of the Arizona Hotshots and was never an employee of the San Diego Fleet.

The issue was created because the jurisdiction in the state of California, if any, is to be based on the contract of [hire] between the Arizona Hotshots and the applicant being made in California.

As set forth above, the applicant has no other contacts in the state of California as he did not play any games in California or practiced in California.

The issue then became which of these two insurance policies, if either, the SCIF policy insuring the California team, San Diego Fleet, or the Travelers policy insuring the Arizona Hotshots, should be responsible for applicant's claim filed in California.

SCIF takes the position their policy applied only to the California team, the San Diego Fleet, and their employees and the applicant was an employee of the Arizona Hotshots. They further argue that the Travelers policy for the Arizona Hotshots where the applicant played during the continuous trauma period should be responsible for applicant's claim in California.

Travelers takes the position that the insurance policy issued by Travelers does not cover the applicant's injury because it excluded only covered injuries in Arizona, Alabama, Georgia and Tennessee. They further argue the "Residual Market Limited Other States Endorsement" does not apply because the applicant was never temporarily employed in California doing work on a temporary basis. The policy issued by Travelers was never intended to cover California injuries for the Arizona Hotshots.

As set forth above, the Arbitrator found in interpreting both policies that the intent of SCIF policy was to insure the San Diego Fleet team of the AAF Players, LLC and not any other team of the AAF Players, LLC.

The Arbitrator found the insurance policy issued by Travelers to the AAF Players, LLC was intended to cover the Arizona team of the AAF Players, LLC. They also had additional policies with other teams of the AAF Players, LLC as mentioned above and not relevant here.

In the opinion of the Arbitrator, the insurance policy issued by Travelers would cover applicant's injury because, at the time of the injury, he was an employee of the Arizona Hotshots. It was the intent of the parties that the insurance policy issued by Travelers would cover the employees of the Arizona Hotshots.

The Arbitrator finds the limitations in the Travelers policy to Georgia, Arizona, Tennessee and Alabama indicated they were only covering the teams in those four states and no other team of the AAF Players, LLC.

In the opinion of the Arbitrator, there was no exclusion for an injury that occurred in California when the applicant was temporarily working in California pursuant to the other states provision of the policy (in this case, the applicant never temporarily worked in California and this part of the policy does not apply) and there was no exclusion where contract of hire was made in California for an applicant who was an employee of the Arizona Hotshots.

In the opinion of the Arbitrator, the issue then became whether the policy issued by Travelers to the Arizona Hotshots had an exclusion if the Arizona Hotshots entered into a contract with an employee in the state of California giving California jurisdiction over the injury.

The Arbitrator, after reviewing the policy, found no valid exclusion if a contract of [hire] was made in California for an employee of the Arizona Hotshots.

The Arbitrator agrees with Travelers that their policy did not cover the California team and also agrees their other states provision does not apply because the applicant was not injured while in California.

However, the facts clearly establish the applicant was an employee of the Arizona Hotshots and that Travelers insured the employees of the Arizona Hotshots for workers' compensation injuries.

Therefore, in the opinion of the Arbitrator, the insurance policy issued by Travelers would cover applicant's injury unless there was a valid exclusion.

The Arbitrator could not find any valid exclusion in the policy stating that the policy did not apply to an employee of the Arizona Hotshots, if the contract of [hire] was made in another state.

As set forth above, the mentioning of four states in the Travelers policy (Arizona, Alabama, Tennessee and Georgia) was for the purpose of indicating the Travelers policy covered the football operations of the teams in those for states.

The SCIF policy was only written to cover the San Diego Fleet team in California and would not cover an employee of the Arizona Hotshots who was hired by the Arizona Hotshots, played for the Arizona Hotshots, never played a game, or practiced in California, and only filed this case in California based on the contract of [hire] being made in California.

There was no evidence introduced that the Arizona Hotshots or the AAF Players, LLC team was appraised that if a contract of [hire] was made in California, the Arizona policy would not cover an employee of the Arizona Hotshots.

Because the SCIF policy only covers the San Diego Fleet of the AAF Players, LLC and the applicant was never an employee of the San Diego Fleet, it is the opinion of the Arbitrator that the policy issued by SCIF would not cover an employee of the Arizona Hotshots who comes under California jurisdiction based on a contract of [hire] in California.

In the opinion of the Arbitrator as set forth above, the policy issued by Travelers covers the employees of the Arizona Hotshots and the applicant was an employee of the Arizona Hotshots during the continuous trauma period and would cover the injury of the applicant in California and would not be excluded because the contract of [hire] was made in California even though the applicant was employed in Arizona for his entire period of employment.

## **G.**

### **SCIF**

In the opinion of the Arbitrator, when the SCIF policy when read as a whole only intended to cover the AAF Players, LLC for the San Diego Fleet team. SCIF never intended to cover any other team. SCIF is prohibited by law from writing policies other than for companies doing business in the state of California.

In the opinion of the Arbitrator, the insurance policy was only insured San Diego Fleet and no exclusion was necessary as that was the only team that was covered by the policy. However, if the policy were read to cover other teams, the Arbitrator would find there was a valid exclusion, excluding the other teams of the AAF Players, LLC from coverage under the SCIF policy.

In the opinion of the Arbitrator, there was no exclusion in the insurance policy issued by Travelers to the Arizona Hotshots for an applicant temporarily in the state of California when injured on employer business (Other States Coverage), not at issue here, and also there was no exclusion in the policy that provided that an employee of the Arizona Hotshots who comes under

California jurisdiction because the contract of [hire] was made in California is excluded from the policy.

**H.**  
**EXCLUSION**

In the opinion of the Arbitrator, the exclusion in the policy set forth that the Travelers policy made it clear that the Travelers policy only covered the teams in the four states mentioned in the policy and covered the Arizona Hotshots.

In this case, the applicant is claiming jurisdiction based on the fact he is an employee of the Arizona Hotshots and became an employee under contract of [hire] that was made in California. Therefore, in the opinion of the Arbitrator, there is no exclusion contained in the policy issued by Travelers that would exclude the applicant from the policy.

The Arbitrator could not find any exclusion in the policy issued by Travelers that would exclude applicant's injuries while employed with the Arizona Hotshots because the contract of [hire] was made in California.

**IV.**  
**RECOMMENDATION**

For the foregoing reasons, is recommended that reconsideration be denied.

DATED: September 8, 2023

Respectfully submitted,  
ALTMAN, BLITSTEIN & BLINDER

**MARK KAHN**, Arbitrator