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

**CURTIS MADDEN III, *Applicant***

**vs.**

**SEATTLE SEAHAWKS, permissibly self-insured,**
**administered by VIVIAN EBERLE dba HELMSMAN MANAGEMENT KENT,**
***Defendants***

**Adjudication Number: ADJ18315308**
**Santa Ana District Office**

# OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration in this matter to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration. Having completed our review, we now issue our Decision After Reconsideration.

Defendant seeks reconsideration of the December 27, 2024 Findings and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a professional athlete from April 1, 2016 to March 1, 2019, sustained industrial injury to his head, neck, legs, nervous system, psychiatric/psyche, and "multiple parts." The WCJ found that California has subject matter jurisdiction over applicant's claim of injury.

Defendant contends that the Workers' Compensation Appeals Board (WCAB) does not have jurisdiction to interpret the provisions of the collective bargaining agreement (CBA) reached between the National Football League (NFL) and the National Football League Players Association (NFLPA), and that the WCAB lacks jurisdiction to determine the validity of a contract of hire for an NFL player.

We have received an Answer from applicant. 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, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we

will affirm the WCJ's determinations regarding subject matter jurisdiction but amend the Findings of Fact to clarify that the issue of injury arising out of and in the course of employment (AOE/COE) remains pending, and to conform the pleaded body parts to those listed in trial proceedings. For purposes of clarity, we will rescind and restate the amended Findings of Fact in their entirety.

**FACTS**

Applicant claimed injury to his head, neck, shoulders, back, spine, hips, elbows, wrists, hands, fingers, legs, knees, ankles, feet, toes, internal system, ENT/TMJ, neuro/psych, hearing, vision, sleep, and chronic pain while employed as a professional athlete by defendant Seattle Seahawks from May 5, 2016 to March 1, 2019. Defendant denies all liability for the claim on the basis that California lacks subject matter jurisdiction.

The parties proceeded to trial on September 16, 2024, and framed for decision the issues of subject matter jurisdiction under Labor Code[1] sections 3600.5(a) and 5305, and "[w]hether the WCAB is precluded by federal law and the Collective Bargaining Agreement from determining whether a contract of hire was made at any point other than contract execution." (Minutes of Hearing and Summary of Evidence (Minutes), dated September 16, 2024, at p. 2:15.) The WCJ heard testimony from applicant and from defense witness Janelle Winston, and ordered the matter submitted for decision as of October 4, 2024.

On December 27, 2024, the WCJ issued his F&O, determining in relevant part that "California has jurisdiction over [a]pplicant's claim of injury under Labor Code sections 3600.5(a) and 5305," and that "the WCAB is not precluded from the formation of applicant's contract for hire by Federal Law of the NFL-NFLPA Collective Bargaining Agreement." (Findings of Fact Nos. 2 & 3.) The WCJ's Opinion on Decision explained that applicant's credible testimony established his acceptance of an offer of employment while at a restaurant in Agoura Hills, California. (Opinion on Decision, at p. 5.) Following his acceptance of an offer of employment, applicant flew to Seattle the next day and thereafter executed a written contract. (*Ibid*.) Applicant's acceptance of an offer of employment while in California resulted in a California hiring under section 5305, which in turn conferred California subject matter jurisdiction over the instant claim of industrial injury. With respect to the provisions of the governing CBA, the WCJ observed that the agreement "contains no express language specifying the time of contract formation nor does it

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

indicate that there is any express understanding that a valid contract is not formed until execution by the parties." (Opinion on Decision, at p. 8.) Rather, the CBA agreement merely expressed the "terms and conditions" that would ultimately need to be included in a contract. The WCJ therefore concluded that neither the CBA nor Federal law "preclude this Court from determining at what point contract formation occurred in this matter." (*Ibid*.)

Defendant's Petition contends that the NFL-NFLPA CBA is subject to the Labor Management Relations Act (LMRA), and that the WCAB is without jurisdiction to interpret the CBA. (Petition, at p. 3:13.) The CBA provides that any agreement between a player and an NFL team "concerning the conditions of employment shall be set forth in writing in a Player contract as soon as practicable," and that "no club shall pay or be obligated to pay any money or anything else of value to any player … other than pursuant to the terms of a signed NFL Player Contract …" (Petition, at p. 4:6, citing Ex. A, NFL and NFLPA CBA 2011 through 2020, dated August 4, 2011, Art. 4, sections 5(a) & 5(c).) Accordingly, defendant asserts that "any dispute regarding interpretation or application of the CBA as it relates to being hired in the NFL must be sent to non-injury grievance Arbitration and the WCAB does not have authority to modify or alter the law of the shop in regard to this issue." (*Id.* at p. 4:19.) By extension, insofar as the F&O purports to interpret what constitutes a "hiring," such interpretation is impermissible because it is precluded by federal law from being resolved by the WCAB. (*Id.* at p. 5:5.)

Applicant's Answer responds that "California case law is replete with cases that stand for the proposition that non-common law 'flexible' principles of contract formation serve to establish California workers' compensation subject matter jurisdiction even in instances where the employer attempts to characterize actions and conditions to be consummated out of the State of California as conditions precedent." (Answer, at p. 4:24.) Based on this jurisprudence, and "despite the CBA, the courts have consistently found that the WCAB has subject matter jurisdiction over claims in which a contract for hire was determined, even through verbal acceptance of a contract." (*Id.* at p. 6:4.) Here, the question of "[w]hether Applicant was able to be hired as an NFL player pursuant to the CBA is not a necessary requirement in deciding whether subject matter jurisdiction in California is proper … [t]herefore, the contract formation issue does not fall under the purview of the NLRA and is not subject to Federal laws." (*Id.* at p. 8:6.)

The WCJ's Report observes that the statutory requirements for California subject matter jurisdiction over applicant's claimed injury were met when applicant accepted a verbal offer of employment while physically located in California:

> Applicant recalled having conversations with representatives from the Seattle Seahawks that included general manager John Schneider while attending a draft party in Agoura Hills, CA. His agent Mr. Ellison had been attempting to negotiate a signing bonus for Applicant but was unable to obtain one. While speaking with Mr. Schneider, Applicant testified he was asked if he would like to become a part of the team and was offered a standard contract and agreed to the terms and conditions, accepting the offer to join the Seahawks. Applicant then spoke with Pete Carroll, the head coach of the Seahawks who welcomed him to the team. (MOH/SOE page 5 line 8).
>
> Applicant was then flown to Seattle which he testifies was paid for by the Seahawks who also furnished transportation from the airport to the team's facility where he was given a tour, provided his jersey and locker, and fitted for his helmet after which he and other rookies were taken to sign their contracts. (MOH/SOE page 6, line 17) Upon arrival his jersey and locker had already been prepared for him. (MOH/SOE page 6, line 25) Having observed and heard Applicant's testimony I found Applicant to present as a credible witness. Based upon Applicant's testimony I found that Applicant agreed to the essential terms of a standard player contract with the Seattle Seahawks while in Agoura Hills, California.

(Report, at p. 2.)

The WCJ's Report further emphasizes that "California has previously acknowledged a strong interest in asserting jurisdiction over claims of injury." (Report, at p. 6.) Citing to the Supreme Court decision in *Travelers Ins. Co. v. Workers' Comp. Appeals Bd.* (*Coakley*) 68 Cal.2d 7 [32 Cal.Comp.Cases 527] (*Coakley*), the WCJ observes that "California has rejected the traditional mechanical solutions to choice-of-law problems and adopted foreign law only when it is appropriate in light of the significant interests in the particular case … [t]he California statute, fashioned by the Legislature in its knowledge of the needs of its constituency, structures the appropriate measures to avoid these possibilities … [e]ven if the employee may be able to obtain benefits under another state's compensation laws, California retains its interest in insuring the maximum application of this protection afforded by the California Legislature. (*Id.* at p. 13.)

## DISCUSSION

The WCJ has determined that pursuant to sections 3600.5(a) and 5305, applicant's acceptance of a verbal offer while in California was sufficient to confer subject matter jurisdiction over applicant's claimed industrial injuries.

Defendant's Petition asserts that the applicant's hiring is governed by a CBA between the NFL and the NFLPA and is subject to section 301(a) of the LMRA. (Petition, at p. 2:26.) Defendant contends that insofar as the applicable CBA provides that no employment agreement is valid unless and until reduced to a written instrument, the WCJ's finding of an oral agreement impermissibly "interprets" the contract formation provisions of the CBA and thus represents an impermissible encroachment on federal law.

For the reasons discussed below, we find this argument unpersuasive because applicant's claim arises out of a well-established, independent body of California law, and because applicant's claim does not depend on the CBA for a cause of action or seek contractual remedies otherwise available under the CBA.

We begin our discussion with a review of the basis for California subject matter jurisdiction as it relates to applicant's claim for workers' compensation benefits. The WCJ has determined that applicant was hired in California, and on that basis, that the WCAB has jurisdiction over the subject matter of the dispute, that is, applicant's claim of industrial injury.

The California Constitution confers on the Legislature "plenary power, unlimited by any provision of this Constitution," to establish a system of workers' compensation. (Cal. Const., Art. XIV, § 4.) That power includes the power to "provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and [the Legislature] may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State." (*Ibid*.) The workers' compensation laws codified in Labor Code section 3200 et seq. are intended to implement that objective and provide "a complete system of [workers'] compensation…" (Lab. Code, § 3201.) (*Dep't of Corr. v. Workers' Comp. Appeals Bd. (Antrim)* (1979) 23 Cal.3d 197, 203 [77 Cal.Comp.Cases 114].) The jurisdictional provisions of article VI of the California Constitution are, therefore, inapplicable to the extent that the Legislature has exercised the powers

granted it under section 4 of article XIV. (*Greener v. Workers' Comp. Appeals Bd.* (1993) 6 Cal.4th 1028, 1037 [25 Cal.Rptr.2d 539, 863 P.2d 784].)

The WCAB has subject matter jurisdiction over a claim when industrial injury occurs in California. (Cal. Const., Article XIV, § 4; Lab. Code, §§ 3202, 5300, 5301; *Daily v. Dallas Carriers Corp.* (1996) 43 Cal.App.4th 720, 726 [61 Cal.Comp.Cases 216] "[T]he California Workers' Compensation Act applies to a worker employed in another state who is injured while working in California"]; *McKinley v. Arizona Cardinals* (2013) 78 Cal.Comp.Cases 23, 27 (Appeals Board en banc) [the WCAB can exercise jurisdiction "over claims of cumulative industrial injury when a portion of the injurious exposure causing the cumulative injury occurred within the state"].)

The legislature has further provided that a hiring in California within the meaning of Labor Code sections 3600.5(a) and 5305 provides this state with sufficient connection to the employment to support adjudication of a claim of industrial injury before the WCAB. (*Alaska Packers Assn. v. Industrial Acc. Com. (Palma)* (1934) 1 Cal.2d 250, affd. (1935) 294 U.S. 532 (*Palma*); *Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 27 [64 Cal.Comp.Cases 745] (*Bowen*) ["an employee who is a professional athlete residing in California, such as Bowen, who signs a player's contract in California furnished to the athlete here by an out-of-state team, is entitled to benefits under the act for injuries received while playing out of state under the contract"]; *Federal Insurance Co. v. Workers' Comp. Appeals Bd.* (2013) 221 Cal.App.4th 1116, 1126 [78 Cal.Comp.Cases 1257] (*Johnson*) ["[T]he creation of the employment relationship in California, which came about when [Mr. Palma] signed the contract in San Francisco, was a sufficient contact with California to warrant the application of California workers' compensation law"].)

Labor Code section 3600.5, subd. (a), provides:

> 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.

Labor Code section 5305 provides:

> 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. Any employee described by this section, or his or her dependents, shall be entitled to the compensation or death benefits provided by this division.

These statutory provisions reflect California's strong interest in applying a "protective legislative scheme that imposes obligations on the basis of a statutorily defined status." (*Travelers Ins. Co. v. Workers' Comp. Appeals Bd. (Coakley)* (1967) 68 Cal.2d 7, 12-13 [32 Cal. Comp. Cases 527] *(Coakley)*.)

> [California's] interest devolves both from the possibility of economic burden upon the state resulting from non-coverage of the workman during the period of incapacitation, as well as from the contingency that the family of the workman might require relief in the absence of compensation. The California statute, fashioned by the Legislature in its knowledge of the needs of its constituency, structures the appropriate measures to avoid these possibilities. Even if the employee may be able to obtain benefits under another state's compensation laws, California retains its interest in insuring the maximum application of this protection afforded by the California Legislature. (*Coakley, supra,* 62 Cal.2d 7, citing *Reynolds Electrical etc. Co. v. Workmen's Comp. Appeals Board* (1966) 65 Cal.2d 429, 437-438 [31 Cal.Comp.Cases 415].)

Thus, the California legislature has enacted sections 3600.5 and 5305 as a reflection of public policy:

> If this were not so there could be no compensation for an injury arising out of and in course of the employment but occurring before the jurisdiction in which the services were to be performed had been entered, or where that jurisdiction had no compensation statute. This would seriously interfere with the policy of the act*, which is to charge to the industry those losses which it should rightfully bear, and to provide for the employee injured in the advancement of the interests of that industry, a certain and prompt recovery commensurate with his loss and, in so doing, lessen the burden of society to care for those whom industry has deprived, either temporarily or permanently, of the ability to care for themselves*. Having a social interest in the existence within its borders of the employer-employee relationship, the state may, under its police power, impose reasonable regulations upon its creation in the state. That the imposition of such conditions is in line with the present-day policy in compensation legislation cannot be doubted. (*Palma, supra,* 1 Cal.2d 250, 256, italics added.)

The formation of a contract for hire, standing alone, is sufficient to confer California jurisdiction over an industrial injury that occurs outside the state. "[T]he creation of the [employer-employee] status under the laws of this state is a sufficient jurisdictional basis for the regulation of that relationship within this state and the creation of incidents thereto which will be recognized

within this state, even though the relation was entered into for purposes connected solely with the rendition of services in another state." (*Palma, supra*, 1 Cal.2d 250; *Benguet Consol. Mining Co. v. Industrial Acci. Com.* (1939) 36 Cal.App.2d 158, 159 [1939 Cal. App. LEXIS 28]; *McKinley, supra,* 78 Cal.Comp.Cases 23; *Jackson v. Cleveland Browns* (December 26, 2014, ADJ6696775) [2014 Cal. Wrk. Comp. P.D. LEXIS 682].)

California courts have also held that the formation of an oral contract in California is sufficient to confer jurisdiction under section 5305. Under California law, "an oral contract consummated over the telephone is deemed made where the offeree utters the words of acceptance." (*Janzen v. Workers' Comp. Appeals Bd.* (1997) 61 Cal.App.4th 109, 114 [71 Cal.Rptr.2d 260], citing *Coakley, supra*, 68 Cal.2d 7, 14.) Pursuant to Civil Code section 1583, "[c]onsent is deemed to be fully communicated between the parties as soon as the party accepting a proposal has put his acceptance in the course of transmission to the proposer, in conformity to the last section." (Cal. Civ. Code, § 1583.) Thus, in *Paula Insurance Co. v. Workers' Comp. Appeals Bd.* (2000) 65 Cal.Comp.Cases 426 [2000 Cal. Wrk. Comp. LEXIS 6264] (writ denied), the telephonic offer of employment by an Oregon employer, as accepted by the father of a California farm laborer, was sufficient to form a contract of hire.

California courts have further held that a contract for hire is formed for purposes of California jurisdiction even when not every term has been negotiated, so long as the essential terms of engagement have been agreed upon. Decided more than 100 years ago, the case of *Globe Cotton Oil Mills v. Industrial Acc. Com.* (1923) 64 Cal.App. 307, 309-310 [1923 Cal. App. LEXIS 130], involved a contract for hire made in Calexico, California for work to be performed outside California. The parties to the agreement did not reach an accord regarding applicant's wages until applicant had been working for several days. The court of appeal observed that "[t]he place of the contract is the place at which the last act was done by either of the parties essential to a meeting of the minds." (*Id*. at 309-310.) Thus, "[t]he substance of the negotiations was that at Calexico, within the state of California, [applicant] asked the superintendent for a job; the superintendent said he would see about it and later told [applicant] that he could go to work." (*Id*. at 309.) Thus, a contract was formed in California when the parties reached a meeting of the minds regarding the employment, despite issues such as a rate of pay having not yet been negotiated. *(Ibid.)*

In *Reynolds Electrical & Engineering Co v. Workers' Comp. Appeals Bd. (Egan)* (1966) 65 Cal.2d 429 [31 Cal.Comp.Cases 415] (*Egan*), the employee accepted an offer of Nevada

employment, conveyed by a representative of his union, while physically located at a union hiring hall in California. The Supreme Court held that the contract for hire was made in California even when certain out-of-state contingencies were to be satisfied at a date subsequent to the date of agreement, including the completion of a lengthy questionnaire in Nevada, applicant obtaining a security clearance once in Nevada *before he could commence work*, and where the employer could reject applicant when he appeared at job site in Nevada. (*Egan, supra,* 65 Cal.2d 429, 431-432.)

One year after the decision in *Egan*, the Supreme Court confirmed in *Coakley, supra*, 68 Cal.2d 7, that a contract for hire in California was established even where all of the conditions of employment were not yet finalized. In *Coakley*, applicant in California accepted an offer for work in Wyoming. Notwithstanding this oral contract for hire, the employer required the completion of additional documents and conditions, including, inter alia, documents specifying applicant's work, addressing patent rights, requiring four weeks' notice of termination, completion of a W-2 form and completion of both a medical examination and a driver's test. Moreover, applicant's job title was changed following the initial agreement from Geological Aid/Technician to Assistant Engineer - Mud Logging. The Supreme Court held:

> [T]he oral California agreement included the essential terms of the contract: the parties, time and place of employment, salary, and the general category of employment (geologist). An employment contract need not detail every condition of employment (*Gordon v. Wasserman* (1957) 153 Cal.App.2d 328, 329 [314 P.2d 759]). That particular terms remain undesignated does not render the original contract invalid for uncertainty. Later agreement on the unspecified terms does not rescind the original contract (*Wilson v. Wilson* (1950) 96 Cal.App.2d 589, 594 [216 P.2d 104]), especially if the parties' performance indicates that they intended to be bound by the prime agreement. (*Bohman v. Berg* (1960) 54 Cal.2d 787, 794-795 [8 Cal.Rptr. 441, 356 P.2d 185].) Second, an alteration of details of the contract which leaves undisturbed its general purpose constitutes a modification rather than a rescission of the contract (*Grant v. Aerodraulics Co.* (1949) 91 Cal.App.2d 68, 74-75 [204 P.2d 683]); it does "not affect the original contract, which still remains in force." [Citations.]

(*Coakley, supra*, 68 Cal.2d 7, 17.)

On this basis, the Supreme Court thus concluded that a valid contract for hire was established in California, conferring California jurisdiction over the subsequent workers' compensation claim.

In the present matter, the WCJ determined that for purposes of determining subject matter jurisdiction under section 5305, applicant was hired in California. (Finding of Fact No. 2.) In 2016, applicant was not selected during the NFL draft and was instead a free agent. In his initial discussions with interested teams, applicant sought contract terms that included a signing bonus but was ultimately unable to obtain one. (Minutes, at p. 6:4.) Following the conclusion of the draft, defendant contacted applicant by telephone and tendered an offer of employment. (*Id.* at p. 6:1.) Applicant accepted the verbal offer and communicated that acceptance by telephone directly to the team's general manager and head coach. (*Id.* at p. 6:7.) While applicant did not sign a written contract until approximately two days later, applicant affirmed that the "contract he signed at the Seattle facility contained the same terms and conditions that he discussed with [head coach] Mr. Carroll and [general manager] Mr. Schneider." (*Id.* at p. 8:4.)

We also note that the WCJ found applicant's testimony to be fully credible. (Report, at p. 2.) We accord to the WCJ's credibility determinations the great weight to which they are entitled. (*Garza v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].)

On these facts, we agree with the WCJ's conclusion that applicant was hired in California. Defendant tendered the essential terms of hire to applicant telephonically, and applicant considered and accepted those terms, creating a contract of hire when he uttered the words of acceptance. (*Janzen v. Workers' Comp. Appeals Bd.*, *supra*, 61 Cal.App.4th at p. 114.) Moreover, pursuant to section 5305 and *Palma*, *Bowen,* and *Johnson, supra*, applicant's hiring in California "is a sufficient jurisdictional basis for the regulation of that relationship within this state and the creation of incidents thereto which will be recognized within this state…." (*Palma, supra*, 1 Cal.2d 250; *Bowen, supra,* 73 Cal.App.4th 15, 27; *Johnson, supra,* 221 Cal.App.4th 1116, 1126.) The WCJ has appropriately analyzed California's statutory grant of jurisdiction under the facts of this case and found subject matter jurisdiction with respect to applicant's claim for industrial injury.

Defendant's Petition contends "[t]he issue of when one is hired to be a professional football player and whether it is required that a player sign a Uniform Player Contract in order to be hired as a professional football player involves interpretation and analysis of the NFL CBA." (Petition, at p. 3:24.) The CBA provides that any agreement between a player and an NFL team "concerning the conditions of employment shall be set forth in writing in a Player contract as soon as practicable," and that "no club shall pay or be obligated to pay any money or anything else of value

to any player … other than pursuant to the terms of a signed NFL Player Contract …" (Petition, at p. 4:6, citing Ex. A, NFL and NFLPA CBA 2011 through 2020, dated August 4, 2011, Art. 4, sections 5(a) & 5(c).) Defendant contends therefore that "[a]ny dispute regarding interpretation or application of the CBA as it relates to being hired in the NFL must be sent to non-injury grievance Arbitration and the WCAB does not have authority to modify or alter the law of the shop in regard to this issue." (Petition, at p. 4:19.) Insofar as the WCJ has determined that, for purposes of determining the court's jurisdiction over a California workers' compensation claim an oral agreement constituted a hiring, defendant argues the finding of impermissibly encroaches on Federal law. (*Id.* at p. 6:21.)

In *Lingle v. Norge Division of Magic Chef, Inc.* (1988) 486 U.S. 399 [108 S. Ct. 1877], the U.S. Supreme Court observed that section 301 of the LMRA "not only provides federal court jurisdiction over controversies involving collective-bargaining agreements but also authorizes federal courts to fashion a body of federal law for the enforcement of these collective bargaining agreements." (*Id.* at p. 403.) In evaluating the interaction between state and federal law under the LMRA, the court explained "if the resolution of a state-law claim depends upon the meaning of a collective-bargaining agreement, the application of state law (which might lead to inconsistent results since there could be as many state-law principles as there are States) is pre-empted and federal labor-law principles -- necessarily uniform throughout the Nation -- must be employed to resolve the dispute." (*Id.* at p. 406.) However, the application of state law would be preempted only if such application requires the interpretation of a collective-bargaining agreement. (*Id.* at p. 423.) Importantly, the court noted that similarities in analysis of a cause of action under state law and a CBA were not a sufficient basis upon which to claim preemption.

> We agree with the court's explanation that the state-law analysis might well involve attention to the same factual considerations as the contractual determination of whether Lingle was fired for just cause. But we disagree with the court's conclusion that such parallelism renders the state-law analysis dependent upon the contractual analysis. For while there may be instances in which the National Labor Relations Act pre-empts state law on the basis of the subject matter of the law in question, § 301 pre-emption merely ensures that federal law will be the basis for interpreting collective-bargaining agreements, and says nothing about the substantive rights a State may provide to workers when adjudication of those rights does not depend upon the interpretation of such agreements. **In other words, even if dispute resolution pursuant to a collective-bargaining agreement, on the one hand, and state law, on the other, would require addressing precisely the same set of facts, as long as**

**the state-law claim can be resolved without interpreting the agreement itself, the claim is "independent" of the agreement for § 301 pre-emption purposes.**

(*Id.* at p. 408-410, emphasis added.)

Thus, the salient question presented herein is whether we can resolve applicant's claim for California workers' compensation benefits without interpreting the CBA between the NFL and the NFLPA.

In *Rissetto v. Plumbers & Steamfitters Local 343* (1996) 94 F.3d 597 [61 Cal.Comp.Cases 833], the plaintiff's cause of action under California's Fair Employment and Housing Act was preempted by section 301 of the LMRA because the "contract alleged to have been breached *is itself the CBA*." (*Id.* at p. 835, italics added.) In similar fashion to LMRA preemption, we observed that "[t]he basic thrust of the [ERISA] pre-emption clause . . . was to avoid a multiplicity of regulation in order to permit the nationally uniform administration of employee benefit plans." (*Id.* at p. 150.)

In analogous cases involving federal preemption under the Employee Retirement Income Security Act (ERISA) 29 U.S.C. § 1144, the WCAB has held en banc that insofar as a claim for discrimination under Labor Code section 132a "relates" to the ERISA plan, the claim is preempted by ERISA. (*Navarro v. A&A Farming* (2002) 67 Cal.Comp.Cases 145 [Appeals Bd. en banc].) We concluded therein that "a state law action based on an employer's allegedly wrongful denial of ERISA benefits is preempted … [t]herefore, applicant's section 132a action (which, essentially, is premised on an allegation that his ERISA benefits were wrongfully terminated following his industrial injuries) is also preempted." (*Id.* at pp. 153-154.)

Similarly, in *Pacific Bell v. Workers' Comp. Appeals Bd.* (*Grigsby*) (1986) 186 Cal.App.3d 1603 [51 Cal.Comp.Cases 529], the California court of appeal held that applicant's claim for reinstatement of additional service credits and increased compensation pursuant to section 132(a) were preempted by ERISA.

Conversely, however, where applicant's claim for benefits under California's workers' compensation system can be resolved without interpreting the CBA itself, the claim is "independent" of the agreement for LMRA section 301 preemption purposes. (*Lingle, supra*, 486 U.S. at p. 410.) A state-law cause of action is not preempted by a federal labor statute if the state law involves rights and obligations that exist independently of the collective bargaining agreement. (*Roadway Express v. Workers' Comp. Appeals Bd.* (2006) 71 Cal.Comp.Cases 864 [2006 Cal.

Wrk. Comp. LEXIS 180] (writ den.), citing *Hawaiian Airlines v. Norris*, (1994) 512 U.S. 246, 252 [114 S. Ct. 2239].) As the U.S. Supreme Court explained in *Allis-Chalmers Corp. v. Lueck* (1985) 471 U.S. 202 [105 S.Ct. 1904]:

> [N]ot every dispute concerning employment, or tangentially involving a provision of a collective-bargaining agreement, is pre-empted by § 301 or other provisions of the federal labor law. Section 301 on its face says nothing about the substance of what private parties may agree to in a labor contract. Nor is there any suggestion that Congress, in adopting § 301, wished to give the substantive provisions of private agreements the force of federal law, ousting any inconsistent state regulation. Such a rule of law would delegate to unions and unionized employers the power to exempt themselves from whatever state labor standards they disfavored. Clearly, § 301 does not grant the parties to a collective-bargaining agreement the ability to contract for what is illegal under state law. **In extending the pre-emptive effect of § 301 beyond suits for breach of contract, it would be inconsistent with congressional intent under that section to pre-empt state rules that proscribe conduct, or establish rights and obligations, independent of a labor contract**.

(*Id.* at pp. 211-212, emphasis added.)

In *Employee Staffing Services v. Aubry* (1993) 20 F.3d 1038 [1994 U.S. App. LEXIS 6382] (*Employee Staffing Services*), a group of staffing agencies sponsored an ERISA plan, and argued that they were exempt from California law requiring they purchase workers' compensation insurance. (*Id.* at p. 1039.) The court offered the terse observation that, "[t]he premise of the complaint in this case is that ERISA opened a loophole so that employers could avoid buying workers' compensation insurance. It does not." (*Ibid*.) The court analyzed the issue of preemption by inquiry into whether California's requirement for workers' compensation insurance coverage infringed on the rights and responsibilities of the ERISA plan participants:

> Is the state telling employers how to write their ERISA plans, or conditioning some requirement on how they write their ERISA plans? Or is it telling them that regardless of how they write their ERISA plans, they must do something else outside and independently of the ERISA plans? If the latter, as here, there is no preemption. If the former, additional questions might need to be asked. See *Shaw*, 463 U.S. at 108; *Barker*, 819 F. Supp. at 895. But in this relatively simple case, we need not deal with those questions. California cannot tell employers how to write their ERISA plans. But its command that they secure payment of workers' compensation through state-licensed insurance or approved self-insurance does not control how they write their ERISA plans. The state's commands therefore cannot be escaped even by an ERISA plan that provides benefits at greater levels than mandated by state workers' compensation, as

> Employee Staffing claims. The power to determine whether the employer shall maintain a separately administered workers' compensation plan belongs to the State of California, not to the employer.

(*Id.* at p. 1041.)

Three years later, the Ninth Circuit decided *Contract Services Network v. Aubry* (1996) 62 F.3d 294 [1995 U.S. App. LEXIS 20259] (*Contract Services*), a similar case wherein plaintiff association of employers argued that California's requirement that they secure workers' compensation insurance coverage under Labor Code section 3700 was preempted by various federal labor laws including ERISA and the LMRA. With respect to the claim of ERISA preemption, the Ninth Circuit reaffirmed the analysis in *Employee Staffing Services, supra*, 20 F.3d 1038, that "the State of California has not attempted to regulate or intrude upon the Trust plan maintained by CSN," obviating the claim of preemption. (*Id. at p.* 727.) With respect to plaintiffs' claim of preemption under the LMRA, the court observed that there was no dispute over the rights established in the underlying collective bargaining agreement. (*Id.* at p. 729.) Accordingly, the coverage requirements specified under California law were not otherwise preempted by the LMRA.

More recently, the California Supreme Court had occasion to analyze and reject a similar argument for preemption under section 301 of the LMRA in *Melendez v. San Francisco Baseball Assoc.* (2019), 7 Cal.5th 1 [246 Cal.Rptr.3d 287] (*Melendez*). Therein, plaintiffs brought a wage payment claim under California law, asserting that their wages must be paid upon discharge, while the defendant San Francisco Giants averred that California law generally required payment on a semimonthly basis. (*Id.* at p. 2.) However, the threshold issue which was ultimately decided by the California Supreme Court was defendant's contention that the lawsuit required interpretation of an applicable CBA between the plaintiffs' union and the Giants, and as such, the suit filed in California was preempted by federal law and would need to be submitted to arbitration.

The *Melendez* decision began with an acknowledgment of the policies underlying federal preemption, including the need to "ensure nationwide uniformity with respect to the interpretation of collective bargaining agreements and preserve arbitration as the primary means of resolving disputes over the meaning of collective bargaining agreements." (*Id.* at pp. 7-8.) However, "not every claim which requires a court to refer to the language of a labor-management agreement is necessarily preempted … [i]n order to help preserve state authority in areas involving minimum labor standards, the Supreme Court has distinguished between claims that require interpretation or

construction of a labor agreement and those that require a court simply to 'look at' the agreement." (*Id.* at p. 8, citing *Livadas v. Bradshaw* (1994) 512 U.S. 107, 123-126 [114 S. Ct. 2068].) Accordingly, "[t]he inquiry is not "into the merits of a claim; it is an inquiry into the claim's 'legal character'—whatever its merits—so as to ensure it is decided in the proper forum. … Our only job is to decide whether, as pleaded, the claim 'in this case is "independent" of the [CBA] in the sense of "independent" that matters for … pre-emption purposes: *resolution of the state-law claim does not require construing the collective-bargaining agreement.*'" (*Id.* at p. 9, italics added.) The *Melendez* decision also recognized that in determining whether the claim was brought independently of the CBA, that California retained an interest in enforcing its own labor laws:

> As an overarching principle, the high court has also "emphasized that 'pre-emption should not be lightly inferred in this area, since the establishment of labor standards falls within the traditional police power of the State.'" (*Lingle, supra*, 486 U.S. at p. 412.) Although a policy exists in ensuring uniformity of interpretation of collective bargaining agreements, no such policy exists in favor of uniformity of state labor standards. Federal law "does not provide for, nor does it manifest any interest in, national or systemwide uniformity in substantive labor rights." (*Alaska Airlines, supra*, 898 F.3d at p. 919.)

(*Melendez, supra*, 7 Cal.5th at p. 9.)

Moreover, while a state law claim is preempted if a court must interpret a disputed provision of the collective bargaining agreement to determine whether the plaintiff's state law claim has merit, "a speculative possibility that a collective bargaining agreement dispute may arise later in the course of litigation will not preempt a state law claim when none of the collective bargaining agreement's terms are presently in dispute." (*Id.* at p. 10.) Following a comprehensive review of the applicable statutory and case law authority, the California Supreme Court concluded that "bearing in mind that preemption should not be lightly inferred because establishing minimum labor standards comes within a state's traditional police power, we conclude this lawsuit is not preempted … [t]he parties' dispute turns on an interpretation of California's independent labor laws, not on an interpretation of the collective bargaining agreement." (*Ibid.)* Moreover, the court reiterated that "labor law rights such as that under Labor Code former section 201.5, are not negotiable and that section '301 does not permit parties to waive, in a collective bargaining agreement, nonnegotiable state rights….'" (*Id.* at p. 12, citing *Balcorta v. Twentieth Century-Fox Film Corp.* (2000) 208 F.3d 1102, 1111.)

Here, applicant has filed a claim seeking workers' compensation benefits provided under California law. The WCJ has appropriately noted the legislative intent underlying sections 3600.5(a) and 5305 and determined that a California hiring is sufficient for the extension of California jurisdiction over applicant's claim of industrial injury. The WCJ's analysis of whether California's jurisdictional requirements have been met does not require interpretation of the CBA. Rather, the WCJ's F&O determined that based on a well-developed body of California jurisprudence reaching back more than 100 years, applicant's acceptance of a verbal offer of employment extended telephonically by defendant resulted in a California hiring under Labor Code section 5305. (Finding of Fact No. 2; Opinion on Decision, at p. 4; *Palma, supra*, 1 Cal.2d 250; *Janzen, supra*, 61 Cal.App.4th 109.)

We also observe that insofar as defendant contends the CBA required applicant's contract of hire "be set forth in writing in a Player contract as soon as practicable," no interpretation is necessary to see that this unambiguous provision of the CBA contemplates the initiation of a contract of hire by verbal agreement. In *Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15 [64 Cal.Comp.Cases 745], the California Court of Appeal determined the WCAB retained subject matter jurisdiction over a claim where applicant signed a contract in California, notwithstanding the fact that the contract was subsequently, outside of California, signed by the team and, as required by the contract, approved by the commissioner of the sport involved. (*Id.* at p. 747.) Citing both *Reynolds, supra*, and *Coakley, supra*, the *Bowen* court observed that for purposes of evaluating California jurisdiction, applicant was hired in California when he signed the contract tendered by the Florida Marlins, even though the contract required a subsequent signature from the Marlins as well as the Baseball Commissioner. (*Id.* at p. 26.) The *Bowen* court noted that "[e]ven if, for the sake of discussion, Bowen's acceptance of the Marlins' offer did not form a contract under common law in California by reason of the contract clause requiring the Commissioner's approval, we would still conclude that *Bowen* is entitled to benefits under California workers' compensation law." (*Ibid*.) Citing to section 5000, which provides that "[n]o contract … shall exempt the employer from liability for the compensation fixed by this division," the *Bowen* court explained an employer cannot, simply by adding a contract clause requiring the approval of a third party, such as a commissioner, located out of state, deny an employee California workers' compensation benefits where the employee accepts an offer of employment in California. "To permit the use of such a contract clause to defeat an employee's claim for benefits would

violate section 5000 prohibiting contracts exempting employers from liability under the California Workers' Compensation Act and frustrate California's interests in protecting employees hired in California and injured elsewhere." (*Id.* at pp. 26-27; see also *Matthews v. National Football League* (2012) 688 F.3d 1107, 1112 [77 Cal.Comp.Cases 711] [once an employment relationship is established with the State to trigger application of California benefits, under California's workers' compensation public policy, an eligible employee cannot waive those benefits contractually]; see also *Melendez, supra*, 7 Cal.5th 1, 12 ["section 301 does not permit parties to waive, in a collective bargaining agreement, nonnegotiable state rights"].) In similar fashion, we are persuaded that the CBA's prescription that agreements be reduced to writing as soon as practicable to be a condition subsequent to applicant's California hiring.

We therefore agree with the WCJ's determination that applicant was hired in California when he accepted defendant's verbal offer of employment. We further agree with the WCJ that because applicant's claim is advanced wholly under the auspices of California workers' compensation law, and without resort to the NFL-NFLPA CBA, that the claim is not preempted under section 301 of the LMRA.

Accordingly, and following our independent review of both the evidentiary record and the relevant statutory and case law authority, we conclude that the WCJ appropriately determined that the WCAB is vested with subject matter jurisdiction over applicant's claim. (Finding of Fact No. 2.)

We note apparent clerical error, however, in Finding of Fact No. 1, which states that applicant "sustained injury" to various body parts. Because the issue of injury arising out of and in the course of employment was not among the issues submitted by the parties for decision, and because the parties have not submitted QME or other medical-legal reporting substantiating injury AOE/COE and/or nature and extent of the injury, we will grant defendant's Petition to amend Finding of Fact No. 1 to reflect that applicant "claims" injury, and further amend the claimed body parts to conform to those body parts listed as "claims to have sustained" in the Minutes of trial proceedings. (Minutes, at p. 2:4.)

We also observe that defendant has attached a 27-page arbitration Opinion and Award to its Petition. Defendant at multiple times throughout its Petition urges our reference to, and reliance on, the attached arbitration decision. (See, e.g., Petition at p. 3:28; 4:3; 4:16.) Defendant's Petition does not cite to an Exhibit admitted in evidence, but rather to a "system Arbitration decision of

attached (sic) as Exhibit A for review by the court." (*Id.* at p. 4:1.) Defendant asserts that the arbitration decision attached to its petition "is binding and must be followed by the WCAB." (*Id.* at p. 5:2.)

Applicant's Answer also attaches a separate 16-page arbitration decision to its Answer, and urges our reference to, and reliance on, the attachment. (See, e.g., Answer at pp. 9:21.) Applicant does not cite to the proffered arbitration decision as part of the evidentiary record, merely referring to the document as an Exhibit to applicant's Answer. (*Id.* at p. 9:26.)

Our Rules specifically provide that a "document that is not part of the adjudication file shall not be attached to or filed with a petition for reconsideration or answer unless a ground for the petition for reconsideration is newly discovered evidence." (Cal. Code Regs., tit. 8, § 10945(c)(2).) Insofar as the applicant and defendant seek to offer the arbitration decisions as persuasive authority relevant to our decision herein, neither party has requested that we take permissive judicial notice of the attachments or explains how they have met the conditions necessary to mandatory judicial notice. (Evid. Code, §§ 452, 453.) However, and notwithstanding the parties' respective failure to follow our Rules, we observe that nothing in the attached arbitration decisions changes our opinion because, as is discussed herein, applicant's right to bring a claim for California workers' compensation benefits is determined by the Labor Code and binding appellate and Supreme Court precedent.

We expect both parties to fully comply with our Rules in future pleadings.

In summary, we agree with the WCJ's conclusion that applicant accepted an offer of employment while in California, resulting in a California hiring sufficient for the conferral of subject matter jurisdiction over applicant's claimed industrial injuries under sections 3600.5 and 5305. We further conclude that because applicant's claim is brought solely under California law and applicant's "state-law claim can be resolved without interpreting the [CBA] agreement itself, the claim is 'independent' of the agreement for § 301 [of the LMRA] pre-emption purposes." (*Lingle v. Norge Division of Magic Chef, Inc., supra,* 486 U.S. 399, 410.) Because applicant's claim arises out of a well-established, independent body of California law, and because applicant's claim does not depend on the CBA for a cause of action or seek contractual remedies otherwise available under the CBA, we concur with the WCJ's finding of California jurisdiction over applicant's claim.

We grant defendant's Petition for the limited purpose of amending Finding of Fact No. 1 to specify that applicant *claims* injury, rather than *sustained* injury, and to conform the pleaded body parts to those listed in the minutes of trial proceedings. We further amend Finding of Fact No. 3 to reflect our analysis herein that WCAB jurisdiction is not preempted by the LMRA because applicant's claim for California workers' compensation benefits can be resolved without interpreting the CBA. We will rescind and restate the Findings of Fact and Order in their entirety for purposes of clarity.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of December 27, 2024 is **AFFIRMED**, except that it is **AMENDED** as follows:

## FINDINGS OF FACT

1. Curtis Madden III, while employed from May 5, 2016 to March 1, 2019, as a professional athlete, by the Seattle Seahawks, permissibly self-insured, claims to have sustained injury arising out of and in the course of employment to his head, neck, shoulders, back, spine, hips, elbows, wrists, hands, fingers, legs, knees, ankles, feet, toes, internal system, ENT/TMJ, neuro/psych, hearing, vision, and sleep, resulting in chronic pain.
2. California has jurisdiction over applicant's claim of injury under Labor Code sections 3600.5(a) and 5305.
3. The jurisdiction of the Workers' Compensation Appeals Board is not preempted under section 301 of the Labor Management Relations Act because applicant's claim for California workers' compensation benefits can be resolved without interpreting the NFL-NFLPA collective bargaining agreement.

**ORDER**

IT IS HERBY ORDERED that:

a. Exhibit "A" is admitted into Evidence.

b. Exhibits "M" and "N" are not admitted.

**WORKERS' COMPENSATION APPEALS BOARD**

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

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ PAUL F. KELLY, COMMISSIONER**

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

**May 9, 2025**

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

**CURTIS MADDEN III**
**PRO ATHLETE LAW GROUP**
**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. *abs*