WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

EVAN MOORE, ***Applicant***

vs.

CLEVELAND BROWNS, permissibly self-insured; SEATTLE SEAHAWKS, permissibly self-insured c/o CCMSI; PHILADELPHIA EAGLES and GREEN BAY PACKERS, GREAT DIVIDE INSURANCE COMPANY c/o BERKLEY ENTERTAINMENT, ***Defendants***

Adjudication Number: ADJ9095473
Anaheim District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration in this matter to obtain a transcript of the February 13, 2024 trial proceedings, and 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 Great Divide Insurance Company, on behalf of the Philadelphia Eagles and the Green Pay Packers (Great Divide) seeks reconsideration of the March 14, 2024 Findings of Fact, wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a professional athlete from May 22, 2008 to April 29, 2013, claims to have sustained industrial injury to multiple parts of body, including but not limited to "orthopedic," head, neck, spine, hips, upper and lower extremities, neurological and internal [systems]. The WCJ found that applicant and the Green Bay Packers formed a contract of hire within California's territorial jurisdiction, thus conferring California subject matter jurisdiction over the claim pursuant to Labor Code sections 3600.5 and 5305.

Defendant Great Divide contends there was no California contract of hire because applicant was physically located in Wisconsin at the time that he instructed his contract advisor to accept an offer from the Green Bay Packers. Defendant further contends applicant's agent could not convey

applicant's acceptance of an offer of hire, and that defendant was denied due process when the WCJ denied its request to call a witness.

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.

Following our May 31, 2024 Opinion and Order Granting Reconsideration and Order to Obtain Transcript, a transcript of the February 13, 2024 Trial Proceedings has been filed in the Electronic Adjudication Management System (EAMS).

We have received Great Divide's Request to Supplement its Petition for Reconsideration, and the proposed Supplement to Petition for Reconsideration (Supplemental Petition) and have reviewed the supplemental pleadings pursuant to Workers' Compensation Appeals Board (WCAB) Rule 10964. (Cal. Code Regs., tit. 8, § 10964.)

We have considered the Petition for Reconsideration, the Answer, and the Supplemental Petition, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will affirm the March 14, 2024 Findings of Fact.

FACTS

Applicant claimed injury to multiple parts of body, including but not limited to the head, neck, spine, hips, upper extremities, lower extremities, orthopedic, neurological and internal systems while employed as a professional athlete by the Green Bay Packers from May 22, 2008 to September 15, 2009, the Cleveland Browns from November 9, 2009 to August 31, 2012, the Seattle Seahawks from September 1, 2012 to December 19, 2012, and the Philadelphia Eagles from December 20, 2012 to April 29, 2013. Defendants dispute California jurisdiction over the claimed injury.

The parties proceeded to trial on May 15, 2019 on issues of jurisdiction and sanctions. The WCJ heard applicant's testimony, and ordered the matter submitted for decision.

On June 27, 2019, the WCJ issued her Findings and Order, determining in relevant part that applicant had not established the existence of a California contract of hire, and that the court lacked subject matter jurisdiction pursuant to Labor Code section 3600.5.[1] (Finding of Fact and Order, dated June 27, 2019, Findings No. 2 & 3.)

[1] Unless otherwise stated, all further statutory references are to the Labor Code.

On July 19, 2019, applicant filed a Petition for Reconsideration, contending that a contract for hire was formed in California when applicant's agents accepted the offers made by the various teams, and that applicant's agents had the authority to bind him to an agreement. (Petition, at 7:1.) Applicant asserted that the oral agreements that he reached with the various defendants provide a valid basis upon which to assert California jurisdiction under sections 3600.5 and 5305, and that the execution of the written contracts was a condition subsequent to the hiring. (*Id*. at 16:27, 17:15.)

On September 12, 2019, we granted applicant's Petition for Reconsideration to further study the legal and factual issues in the case.

On December 30, 2022, we issued our Opinion and Decision After Reconsideration, determining in relevant part that applicant's trial testimony established that he entered into a California contract of hire with the Cleveland Browns, conferring California subject matter jurisdiction over the claim pursuant to sections 3600.5 and 5305. (Finding of Fact No. 2.) Our opinion explained that applicant's testimony established that he was physically present in California at the time his agent communicated the terms of an offer of employment by the Cleveland Browns. Applicant verbally accepted the offer of employment, and through his agent, placed his acceptance in the course of transmission to the offeror. (Opinion and Decision After Reconsideration, dated December 30, 2022, at pp. 6-7.)

On January 23, 2023, the Cleveland Browns sought reconsideration, averring in relevant part that the evidentiary record offered conflicting information as to applicant's location at the time he accepted the offer of employment from the Browns. (Cleveland Browns Petition, dated January 23, 2023.)

On January 24, 2023, defendant Great Divide filed its Petition for Reconsideration, contending that applicant's agent did not have authority to accept or commit applicant to a contract, or to convey applicant's agreement to a contract, under the terms of the Standard Representation Agreement (SRA). (Great Divide Petition, dated January 23, 2023, at 9:11.) Great Divide also asserted that the signed, written contract as between applicant and the Browns contained an "integration clause" obviating any prior written or oral agreements; that the liability exemptions of section 3600.5(c) applied as to both the Green Bay Packers and the Philadelphia Eagles; and that the forum selection clauses contained in the written contracts precluded California jurisdiction. (*Id*. at 15:4.)

On March 24, 2023, we granted both defendants' Petitions for Reconsideration. Our Opinion noted that following a review of the entire evidentiary record, we agreed with the Cleveland Browns that the record offered conflicting information as to applicant's physical location at the time he accepted the offer of employment. We observed that pursuant to the NFL Transaction Record, applicant participated in a free agent tryout with New England on October 29, 2009, as well as the Cleveland Browns on November 5, 2009, prior to being signed to play with the Cleveland Browns Practice Squad on November 9, 2009. (Ex. G, NFL Transaction Record, undated, at p. 2.) We observed that the record did not substantively address the specifics of these tryouts, their location or circumstance, and whether applicant was outside of California in the weeks just before he accepted an offer to play with the Browns' practice squad. We also acknowledged that applicant's testimony was not specific as to his exact location at the time he accepted the offer, and that he was in California for the "better part" of the 2009 season. (Partial Transcript of Proceedings, dated May 15, 2019, at 10:14.) Accordingly, we amended our December 30, 2022 Opinion and Decision After Reconsideration to defer the issue of jurisdiction pending development of the record, and returned the matter to the trial level.

On December 12, 2023, applicant entered into a partial settlement of his claim with respect to the Cleveland Browns and the Seattle Seahawks. (Partial Order Approving Compromise and Release Against Seattle Seahawks; Cleveland Browns Only, dated December 12, 2023; see also Lab. Code, § 5005.)

On February 13, 2024, the parties proceeded to trial on the issues of jurisdiction and sanctions. (Minutes of Hearing and Summary of Evidence (Minutes), dated February 13, 2024, at p. 2:17.) The WCJ heard applicant's testimony under direct and cross-examination. Defense counsel moved to call an additional witness to testify, but the WCJ denied defendant's motion based on a failure to list the witness at a prior Mandatory Settlement Conference, and a failure to request the testimony of the witness at a prior trial hearing date on December 12, 2023. (Transcript of Proceedings, dated February 13, 2024, at p. 61:25.)

On March 14, 2024, the WCJ issued her Findings of Fact, determining in relevant part that applicant and the Green Bay Packers formed a contract of hire within California's territorial jurisdiction, thus conferring California subject matter jurisdiction over the claim pursuant to sections 3600.5 and 5305. (Findings of Fact No. 2.) The WCJ's Opinion on Decision observed that applicant had testified credibly at trial to that he was physically present in California when he

received and accepted an offer of employment by the Green Bay Packers. (Opinion on Decision, at pp. 4-5.) Pursuant to section 3600.5(a), the court therefore concluded that applicant's California hiring was sufficient to confer California jurisdiction over the claimed injury. (*Ibid*.)

On April 8, 2024, defendant Great Divide sought reconsideration, asserting a denial of due process arising out of the WCJ's denial of its request to call a witness at trial and its request for a trial transcript. Great Divide also observed that applicant's testimony established that he discussed the terms of the offer from the Green Bay Packers and had agreed to the contract "a day or two" before signing. (Petition, at p. 13:1.) Because collateral evidence established that applicant was in Wisconsin at least two days prior to the execution of the written contract on May 22, 2008, Great Divide asserted applicant was hired in Wisconsin, rather than California. Additionally, the Petition asserted that because applicant's agent did not have the authority to bind him to a contract, the agent could not convey applicant's acceptance of contract. Finally, the Petition asserted that Great Divide had no liability for applicant's claim pursuant to section 3600.5(d). (*Id.* at p. 12:14.)

On April 17, 2024, applicant filed his Answer, asserting that his trial testimony established that both he and his agent were physically present in California when he accepted the Green Bay Packers' offer, and that his testimony was both credible and unrebutted. (Answer, at p. 3:24.) Applicant further asserted that consideration of the SRA and any integration clause in applicant's written contract with the Packers was unnecessary because the use of a contract clause to defeat an employee's claim for benefits would violate section 5000. (*Id.* at p. 5:27.) Additionally, applicant asserted that legislature purposefully enacted a low bar to a finding of employment per section 3351, and that such a determination may arise out of a contract both implied and oral. (*Id.* at p. 6:20.)

On April 23, 2024, the WCJ filed her Report, in which she recommended we uphold the March 14, 2024 Findings of Fact. The WCJ's Report observed that applicant's credible testimony established that he was in Brea, California, at the time he accepted the employment offer from the Green Bay Packers and placed his acceptance in the course of transmission. (Report, at p. 4.) Applicant's hiring in California thus conferred jurisdiction on the WCAB over the claimed injury pursuant to section 3600.5(a). Regarding Great Divide's assertion of a denial of due process because it could not call a witness, the Report observed that defendant sought permission to call its witness only on the eve of trial and failed to provide an offer of proof as to the relevancy of the witness's testimony. (*Id.* at p. 7.)

On May 31, 2024, we granted defendant's Petition in order to further study the legal and factual issues in this matter and ordered that a transcript of trial proceedings be filed in EAMS. We also provided additional time for the parties to submit responsive pleadings. (Opinion and Order Granting Petition for Reconsideration and Order to Obtain Transcript, dated May 31, 2024.)

On June 28, 2024, Great Divide submitted its Supplemental Petition. Therein, defendant contends that pursuant to applicant's testimony as reflected in the trial transcript, he instructed his agent to accept the offer of employment from the Green Bay Packers within a day or two of when he signed the written contract with the team. (Supplemental Petition, dated June 28, 2024, at p. 2:13.) Defendant asserts that collateral evidence in the record places the applicant in Wisconsin two day prior to the contract signing on May 21, 2008. (*Id.* at p. 2:19.) Defendant further notes that applicant was unable to participate in the Organized Team Activities that took place in Wisconsin on May 21, 2008, because he had not yet passed the team physical, and that applicant acknowledged that a player's contract would generally be presented after completion of a tryout. (*Id.* at p. 3:1.) Accordingly, defendant contends that applicant was in Wisconsin when he was hired by the Packers. The Supplemental Petition also observes that per applicant's trial testimony, he could not recall his physical location at the time he accepted either of the contracts with the Cleveland Browns. (*Id.* at p. 3:8.)

DISCUSSION

Pursuant to section 3600.5, an employee who has been hired in California but receives injury outside the state is entitled to compensation under California law. (Lab. Code, § 3600.5(a).) As the California Supreme Court wrote nearly a century ago, "[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." (*Alaska Packers Asso. v. Industrial Acci. Com.* (*Palma*) (1934) 1 Cal.2d 250, 256 [1934 Cal. LEXIS 358], affd. (1935) 294 U.S. 532 [55 S. Ct. 518, 79 L. Ed. 1044, 20 I.A.C. 326] (*Palma*); *Benguet Consol. Mining Co. v. Industrial Acci. Com.* (1939) 36 Cal.App.2d 158, 159 [1939 Cal. App. LEXIS 28]; *McKinley v. Arizona Cardinals* (2013) 78 Cal.Comp.Cases 23, 32-33 [2013 Cal. Wrk. Comp. LEXIS 2]; *Jackson v. Cleveland* Browns (December 26, 2014, ADJ6696775) [2014 Cal. Wrk. Comp. P.D. LEXIS 682].) It is thus well-

settled law that a California hiring confers on the Workers' Compensation Appeals Board the subject matter jurisdiction over "all controversies arising out injuries arising out of injuries suffered outside the territorial limits of the state …." (Lab. Code, § 5305.)

Here applicant alleges a cumulative injury accruing over his career as a professional athlete. Thus, the question herein is whether applicant was hired in California such that the instant controversy arising out of his employment falls within the jurisdiction of the WCAB. In our March 24, 2023 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration (March 24, 2023 ODAR), we observed that "[t]he time and place of contract formation is an integral factor in the evaluation of whether there is California jurisdiction over a claimed extraterritorial injury," and that "[t]he exercise of California jurisdiction often hinges on fact specific testimony or evidence as to the time and place of acceptance of an offer." (March 24, 2023 ODAR, at p. 5.) Following our review of the record, we determined that the evidentiary record needed to be developed to specifically address these considerations and returned the matter to the trial level for further proceedings. (*Id.* at p. 6.)

The WCJ conducted additional trial proceedings on February 13, 2024, and heard testimony from the applicant under direct and cross-examination. (Transcript of Proceedings, dated February 13, 2024 (Transcript), at p. 5:12.) Therein, applicant testified that with respect to the Cleveland Browns he was offered two contracts, one for the practice squad and another to join the team roster, and that he was in Ohio when he accepted both contracts. (*Id.* at p. 15:3; 15:12.) Because applicant was not hired in California at the time he accepted either offer of employment by the Browns, there was no California hiring for purposes of the jurisdictional analysis of section 3600.5(a).

However, with respect to the Green Bay Packers, applicant testified that he was physically present in California when he received an offer to play for the Green Bay Packers. (Transcript, at p. 16:8.) Based on applicant's testimony, the WCJ determined that applicant had been hired in California by the Green Bay Packers, conferring subject matter jurisdiction on the WCAB over the claimed injury. (Finding of Fact No. 2.)

Defendant's Petition contends that the timeline of events surrounding applicant's hiring by Green Bay places applicant in Wisconsin at the time he accepted the offer of employment. Defendant's Petition cites applicant's testimony that he directed his agent to accept the Packers contract "a day or two" before he signed the written contract with the Packers while in Wisconsin,

and that "[b]ased on this testimony, the applicant directed his agent to accept the Packers contract on or about May 20, 2008, or May 21, 2008." (Petition, at p. 2:17.) Defendant reasons applicant's testimony places him in the "state of Wisconsin when he directed his agent to accept the Packers contract because the applicant arrived in Wisconsin on May 20, 2008, and was placed in a hotel by the team, which was two days before the applicant signed his contract with the Packers." (*Id.* at p. 2:19.) Defendant also notes applicant was unable to participate in the Organized Team Activities because he had not yet passed a team physical, and that per applicant's testimony, a player's contract would generally be presented after completion of a tryout. (*Id.* at p. 3:1.)

We note, however, that applicant's recollection with respect to the dates and timeline surrounding his hiring by the Green Bay Packers was nonspecific. Applicant indicated he could not recall the date he was hired, and that he would "just go off the date of the contract and subtract a day or two because it took [me] a day or two to get out there for them." (*Id.* at p. 25:2.) When applicant was asked if he directed his agent to accept the contract a day or two prior to signing the written contract, thus placing applicant in Wisconsin at the time, applicant agreed that "sound[ed] right," but that "it probably was a day or two until I actually flew out there … It probably was day or two until I actually flew out there … I probably flew out there the next day, I guess … I don't remember offhand though." (*Id.* at p. 26:8.)

In contrast, applicant testified to his specific recollection of his location when he accepted the offer of employment from the Packers. Applicant directed his contract advisor to communicate his acceptance back to the Green Bay Packers while located "at the intersection of Berry and Imperial, in Brea, California," (*Id.* at pp. 16:10; 20:18.) When asked why his recollection was so specific, applicant testified, "It was a very monumental time in my life, the Saints contract, it was -- felt a little like I wasn't going to last there, but to have the Packers call, the team that I watched growing up, well, that I was offered a contract at that moment." (*Id.* at p. 16:14.)

In her Opinion on Decision, the WCJ analyzed the question of contract formation as follows:

> In this case, Applicant offered testimony regarding his whereabouts at the time he received and accepted an offer of employment with the Green Bay Packers. He testified that after being released by the New Orleans Saints, he came home to Brea, California. Shortly thereafter, he received an offer from the Green Bay Packers. He received a phone call from his agent while sitting in a vehicle with his mom in Brea, California. He instructed his agent to accept the offer. MOH/SOE dated 2/13/14, pg. 4, lines 12-16. Applicant's agent accepted the

> offer on behalf of the Applicant. MOH/SOE dated 5/5/19, pg. 6, lines 5-6. Applicant's agent testified at his deposition, that with one exception, not the Applicant, he was physically present in California at the time he communicated the acceptance of every one of his various clients. Applicant's Exhibit 1, pg. 19, lines 6-12. The evidence establishes that Applicant was physically located in California at the time a contract of hire was communicated to him. Applicant accepted the offer, and instructed his agent, who was physically present in California, to communicate his acceptance to the Green Bay Packers, thus putting his acceptance in the course of transmission to the proposer. Therefore, the formation of an oral contract of hire within California is sufficient to confer subject matter jurisdiction and precludes the enforcement of forum selection provisions that would serve to obviate that jurisdiction.
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> (Opinion on Decision, at p. 5.)

The WCJ thus accorded significant evidentiary weight to applicant's testimony regarding his physical location in Brea, California, at the time he accepted the offer of employment from the Green Bay Packers. In addition, the Opinion on Decision reflects the WCJ's credibility determination: "The court assessed the Applicant during trial testimony, both times, and found him to be credible and, therefore, considers his testimony unimpeached and reliable." (Opinion on Decision, at p. 3.) 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].) Based on the applicant's specific recollection and testimony regarding the location of his acceptance of the offer of employment from the Packers, and in conjunction with her assessment of applicant's credibility, the WCJ concluded that the greater weight of the evidence supported a California hiring. Based on our deference to the WCJ's credibility determinations, and following our independent review of the evidentiary record, we discern no error in the WCJ's reliance on applicant's testimony to establish a California hiring as the basis for subject matter jurisdiction. (Lab. Code, § 3600.5(a).)

Defendant's Petition also contends that "applicant's contract advisor was expressly prohibited by the SRA and applicant NFLPA regulations governing contract advisors from accepting a contract on applicant's behalf." (Petition, at p. 10:22.) Defendant asserts that "[h]ad the applicant intended to convey his acceptance to any of the NFL teams he played for, he could have easily reached out to each of the teams himself." (*Id.* at p. 11:22.) However, it is not clear that Green Bay was contractually permitted or otherwise authorized to negotiate directly with the represented applicant. Pursuant to the terms of the NFL Regulations Governing Contract Advisors,

the "Contract Advisor shall be the exclusive representative for the purpose of negotiating player contracts for Player." (Petition, at p. 9:19, citing Ex. L, NFLPA Regulations Governing Contract Advisors.) Moreover, and irrespective whether a team could negotiate with a represented player, it was the applicant who formed a contract of hire when he uttered his assent to the terms of the offer conveyed to him by his agent. (*Travelers Ins. Co. v. Workmen's Compensation Appeals Board* (Coakley) (1967) 68 Cal.2d 7 [32 Cal.Comp.Cases 527, 532] ["California has adopted the rule that an oral contract consummated over the telephone is deemed made where the offeree utters the words of acceptance."]; see also *Ledbetter Erection Corp. v. Workers' Comp. Appeals Bd.* (*Salvaggio*) (1984) 156 Cal.App.3d [49 Cal.Comp.Cases 447] ["a contract is formed at the time and place the offeree accepts and communicates his or her acceptance to the offeror"].) The primacy of applicant's decision to accept the offer of employment is reflected in the deposition testimony of applicant's agent, who testified:

> When the player says to us, Let's do it, we communicate that acceptance to the teams, and then the player probably flies into the city, usually how it works, signs the contract. But the agreement has been bound when we've communicated to the team.
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> (Ex. 1, Deposition transcript of Agent Stephen Dubin, dated September 20, 2017, at p. 13:1.)

Here, applicant's contract advisor was not authorized to, nor did he, accept an offer without the player's express consent. Rather, applicant's agent relayed the Packers' offer of employment to the applicant. The applicant, having considered the terms of the offer described by his advisor, reached a decision to accept the offer, and uttered his verbal assent. Thereafter, applicant instructed his agent to convey that acceptance back to the team. We are thus persuaded that applicant's oral acceptance of the offer from the Green Bay Packers in Brea, California, was sufficient to satisfy the jurisdictional requirements for a California hiring, conferring California jurisdiction over this matter as authorized by section 3600.5(a).

Defendant next contends that notwithstanding a California hiring under section 3600.5(a), subdivisions (c) and (d) of section 3600.5 exempt the Green Bay Packers from all liability in this matter. (Petition, at p. 13:22.)

However, the finding of subject matter jurisdiction based on a California hiring obviates the requirements set forth in section 3600.5(c) and (d). In *Hansell v. Arizona Diamondbacks*

(April 7, 2022, ADJ10418232) [2022 Cal. Wrk. Comp. P.D. LEXIS 83] we addressed the question of whether "subdivisions (c) and (d) of section 3600.5 override the general jurisdictional provisions of sections 3600.5(a) and 5305 that provide for jurisdiction where there is a California hire during the period of injury, or do these subdivisions apply only to claims where there is no California hire?" (*Id.* at p. 17.) We noted that "the stated purpose of the amendments to section 3600.5 was to limit the ability of 'out of state professional athletes' with 'extremely minimal California contacts' to file workers' compensation claims in California … The amendments were reacting in large part to a line of decisions that allowed athletes employed by out-of-state teams, who had not been hired in California or played regularly here, to recover California workers' compensation benefits based solely on a handful of games played in this state while employed by their out-of-state teams." (*Id.* at pp. 21-22.) However, we also observed that in narrowing the scope of California jurisdiction applicable to certain professional athletes, the legislature made clear their desire not to disturb the principle that jurisdiction is appropriately conferred when there is a California hiring:

> As is relevant here, the Legislature stated: "It is the intent of the Legislature that the changes made to law by this act shall have no impact or alter in any way the decision of the court in [*Bowen v. Workers' Comp. Appeals Bd.*] (1999) 73 Cal. App. 4th 15 [86 Cal. Rptr. 2d 95]." (Stats. 2013 ch. 653 (AB 1309) § 3.) The central holding of *Bowen*, affirming sections 3600.5(a) and 5305, is that a contract of hire in this state will support the exercise of California jurisdiction even over a claim based purely on out-of-state injury, and that a player's signing of the contract while in this state constitutes hire in this state for that purpose. (*Bowen, supra*, 73 Cal. App. 4th at 27.)
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> Taken together, these two expressions suggest that the Legislature did not intend for subdivisions (c) and (d) to apply to athletes who have been hired in California by at least one employer during the cumulative trauma injury period.
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> (*Id.* at p. 23.)

In *Hansell*, we also concluded that, "[i]f a hire in California during the injury period is a compelling connection to the state, by definition such athletes would not fall into the category of those with 'extremely minimal California contacts' whose claims the Legislature sought to exempt." (*Ibid*.) Accordingly, we found that the formation of a California contract of hire was sufficient to confer subject matter jurisdiction over a claimed injury, obviating the exemption/exception analysis required under section 3600.5(c) and (d). (See also *Neal v. San*

Francisco 49ers (March 9, 2021, ADJ9990732) [2021 Cal. Wrk. Comp. P.D. LEXIS 68]; *Wilson v. Florida Marlins* (February 26, 2020, ADJ10779733) [2020 Cal. Wrk. Comp. P.D. LEXIS 30]; cf. *Harrison v. Texas Rangers* (May 26, 2023, ADJ13604193) [2023 Cal. Wrk.Comp. P.D. LEXIS 151] [no jurisdiction over injury where applicant had no California contract of hire, played more than seven seasons with out-of-state teams, and worked less than 20 percent of duty days in California].)

Applying the analysis in *Hansell, supra,* to the present matter, we conclude that in conjunction with section 5305, the conferral of subject matter jurisdiction under section 3600.5(a) based on a hiring in California obviates the analyses that would otherwise be required under section 3600.5(c) and (d). (Lab. Code, § 3600.5; Report, at pp. 8-9.)

Finally, defendant contends it was denied due process when the WCJ denied its request for additional testimony from a witness. (Petition, at p. 15:20.) However, the WCJ's Report observes that defendant failed to articulate good cause for the dilatory request:

> Defendant petitioned the court and notified parties on 2/12/24, the eve of trial, requesting defendant's witness to testify remotely. The petition did not give adequate time for the court to respond. At trial, the court afforded defendant the opportunity to show good cause why the witness should be allowed to testify and an offer of proof as to the proposed testimony. Defendant could not provide good cause as to why defendant did not call the witness to testify on the first day of trial, 12/12/23, or make a motion to have the witness testify on the following trial date. Furthermore, defendant failed to provide an offer of proof as to the relevancy of the witness testimony.
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> (Report, at p. 7.)

Following our independent review of the record, we discern no denial of due process in the WCJ's ruling regarding trial testimony.

In summary, we accord great weight to the WCJ's determination that applicant was credible when he testified that he accepted an offer of employment from the Green Bay Packers while physically located in Brea, California. Based on our independent review of the evidence, we conclude that the record supports applicant's assertion that he was hired in California, thus conferring subject matter over the present dispute pursuant to section 3600.5(a). We further conclude that applicant's hiring in California obviates the analysis otherwise required under section 3600.5 subdivisions (c) and (d). Finally, we discern no denial of due process in the WCJ's

determination regarding witness testimony at trial. We will affirm the Findings of Fact, accordingly.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the March 14, 2024 Findings of Fact is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 22, 2025

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

EVAN MOORE
LEVITON, DIAZ & GINNOCHIO
PEARLMAN, BROWN & WAX

SAR/abs

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