

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

**HARRISON P. WENSON, *Applicant***

**vs.**

**LOS ANGELES ANGELS; ACE AMERICAN INSURANCE COMPANY/CHUBB,  
administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ18852673  
Santa Ana District Office**

**OPINION AND ORDER  
GRANTING PETITION FOR RECONSIDERATION**

Applicant Harrison P. Wenson seeks reconsideration of the April 14, 2025 Findings of Fact and Order, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that California does not have subject matter jurisdiction over applicant's claim of cumulative trauma injury.

Applicant contends that California has subject matter jurisdiction because (1) applicant satisfied the exceptions found in Labor Code section 3600.5(d),<sup>1</sup> (2) defendant, a California employer, benefited from and maintained direct control over applicant's employment, and (3) applicant was hired by and regularly working for a California based team during the period of injurious exposure.

We received an answer from defendants Los Angeles Angels and Ace American Insurance Company/Chubb. 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. Based upon our preliminary review of the record, we grant applicant's Petition for Reconsideration. Our order granting applicant's Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a

---

<sup>1</sup> All statutory references are to the Labor Code unless otherwise indicated.

final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to section 5950 et seq.

## **FACTS**

As the WCJ stated in his Report:

The Applicant alleges cumulative traumatic injury to multiple body parts while working as a professional baseball player over the period June 19, 2017, through November 10, 2022. The Applicant was an employee of the Los Angeles Angels baseball organization over the period June 19, 2017, through June 5, 2021, and thereafter of the Chicago Cubs over the period June 18, 2021 through November 10, 2022. Applicant's injurious exposure did not occur in California. Applicant had no professional contracts which were formed in California. Applicant never worked in the State of California. Applicant never played, practiced or trained in California. Applicant never set foot in California for any professional or personal purpose during his baseball career.

The parties proceeded to trial on March 26, 2025. Thereafter, the parties requested a concurrent period until April 9, 2025, in which to submit post-trial briefs. On April 9, 2025, the matter stood submitted for decision.

The parties stipulated at trial in pertinent portion as follows:

1. Harrison Wenson, [], while employed during the period June 19, 2017, through November 10, 2022, as a Professional Baseball Player, Occupational Group Number 590 by the Los Angeles Angels over the period June 19, 2017, to June 5, 2021, and thereafter by the Chicago Cubs over the period June 18, 2021 to November 10, 2022, claims to have sustained injury arising out of and in the course of employment to the head, with claims of additional injury to additional body parts deferred.
2. At the time of injury, the Los Angeles Angels' workers compensation carrier was ACE American Insurance Company administered by Sedgwick Claims Management Services.
3. The contracts of hire between Applicant Harrison Wenson and his employers were not formed in California.
4. Applicant did not play regularly, temporarily or otherwise within the State of California during any portion of his claimed cumulative traumatic injury

The issue submitted for decision was:  
Does California have subject matter jurisdiction over Applicant Harrison Wenson's claim of cumulative traumatic injury?

Applicant offered no trial exhibits. The parties offered one joint exhibit, which was entered into evidence without objection. Defendant offered three exhibits which were entered into evidence without objection. Applicant was the sole witness providing testimony. (Report, p. 2-4.)

## **DISCUSSION**

### **I.**

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

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

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

Here, according to Events, the case was transmitted to the Appeals Board on May 14, 2025 and 60 days from the date of transmission is Sunday, July 13, 2025. The next business day that is 60 days from the date of transmission is Monday, July 14, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)<sup>2</sup> This decision is issued by or on Monday, July 14, 2025, so that we have timely acted on the petition as required by section 5909(a).

---

<sup>2</sup> WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

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

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

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on May 14, 2025, and the case was transmitted to the Appeals Board on May 14, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on May 14, 2025.

## II.

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

In addition to injuries occurring in California, the WCAB can also assert subject matter jurisdiction over injuries occurring outside this state in certain circumstances. Section 3600.5(a) states: "If an employee who has been hired or is regularly working in the state receives personal injury by accident arising out of and in the course of employment outside of this state, he or she, or his or her dependents, in the case of his or her death, shall be entitled to compensation according to the law of this state." (§ 3600.5(a).) Similarly, section 5305 states: "The Division of Workers' Compensation, including the administrative director, and the appeals board have jurisdiction over all controversies arising out of injuries suffered outside the territorial limits of this state in those

cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state.” (§ 5305.)<sup>3</sup>

Additional requirements apply to certain professional athletes filing workers’ compensation claims involving occupational disease or cumulative trauma injuries. (§ 3600.5(g).) Section 3600.5(c) and (d) provide:

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

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

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

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

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

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

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

---

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

any team other than a California-based team, and dividing that number by the total number of duty days the professional athlete was employed anywhere as a professional athlete.

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

(2) When subparagraphs (A) and (B) of paragraph (1) are both satisfied, liability for the professional athlete's occupational disease or cumulative injury shall be determined in accordance with Section 5500.5. (§ 3600.5(c) and (d).)

The issue here is whether subject matter is established when applicant meets the elements in section 3600.5(d)(1)(A) and (B) without having met the requirements in section 3600.5(a) or section 5305. Applicant contends that solely meeting the elements in section 3600.5(d)(1)(A) and (B) is sufficient to establish subject matter jurisdiction in California. We grant reconsideration to further study this issue.

### III.

Finally, we observe that under our broad grant of authority, our jurisdiction over this matter is continuing.

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

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal. App. 4th 372, 374 [57 Cal. Comp. Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Section 5901 states in relevant part that:

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

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

#### IV.

Accordingly, we grant applicant’s Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for

Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

For the foregoing reasons,

**IT IS ORDERED** that applicant Harrison P. Wenson's Petition for Reconsideration of the April 14, 2025 Findings of Fact and Order is **GRANTED**.

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

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



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

**JULY 14, 2025**

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

**HARRISON P. WENSON  
PRO ATHLETE LAW GROUP, P.C.  
GOLDBERG SEGALLA**

**LSM/pm**

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