WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JOEL GARCIA, *Applicant*

vs.

SAN DIEGO PADRES; ACE AMERICAN INSURANCE, administered by SEDGWICK, *Defendants*

Adjudication Numbers: ADJ13153374, ADJ13153421, ADJ14679364
Santa Ana District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

The San Diego Padres ("the Padres") seek reconsideration of the Opinion and Decision After Reconsideration issued on July 21, 2026 by the Workers' Compensation Appeals Board.[1] In our Decision, we found that the exercise of WCAB jurisdiction over applicant's claim was proper in light of the recent Court of Appeal decision *Atlanta Falcons v. Workers' Comp. Appeals Bd.* (*Gandy*) (2025) 114 Cal.App.5th 1268 [90 Cal.Comp.Cases 997] ("*Gandy*") because applicant was hired in California under the standard articulated by that case. *Gandy* opined that hire by *a California-based team* would constitute hire *in California* even if the offer of employment was accepted elsewhere, because "the California-based team's location in California would supply the necessary connection to California to deem the contract a California contract," thereby conferring subject-matter jurisdiction under Labor Code[2] section 3600.5, subdivision (a) and/or section 5305. (*Id.* at p. 1280.)

Because *Gandy* was issued after we granted reconsideration in this matter, we provided the parties with an opportunity to file supplemental briefing prior to issuing our Decision After Reconsideration. Applicant filed such briefing, but we did not receive any supplemental briefing from the Padres. In this Petition for Reconsideration, the Padres contend that they attempted to file

[1] Defendant filed its petition with the DWC District Office. In the future, defendant must follow WCAB Rule 10940(a) when seeking reconsideration of decisions of the Appeals Board. (Cal. Code Regs., tit. 8, § 10940(a).) In addition to filing the petition in the Electronic Adjudication Management System (EAMS), such petitions shall also be filed directly with the office of the Appeals Board.
[2] Further references are to the Labor Code unless otherwise specified.

a responsive pleading, but that for unknown reasons the filing did not appear in the Electronic Adjudication Management System ("EAMS"). The Padres further assert that the statement regarding California hire in *Gandy* is dicta and not binding appellate precedent, and therefore that we should have disregarded it and found there was no hire in California in this case based on prior precedent because applicant was not present in California when he accepted the offer.

We received an Answer from applicant, confirming that he was served with the Padres' supplemental briefing, but otherwise agreeing with our reading of *Gandy* and with our finding of subject-matter jurisdiction in this matter.

We have considered the Petition for Reconsideration, the Answer, and, as described below, the supplemental briefing the Padres attempted to file. Based on the reasoning stated in our original July 21, 2026 decision, and for the reasons stated below, we will deny the Petition for Reconsideration.

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to section 5909, which states 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 August 4, 2026, and 60 days from the date of transmission is Saturday, October 3, 2026. The next business day that is 60 days from the date of transmission is Monday, October 5, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[3] This decision is issued by or on Monday, October 5, 2026, so that we have timely acted on the Petition as required by section 5909(a).

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

Here, since the Petition seeks review of our decision, the WCJ did not prepare a Report, and no other notice to the parties of the transmission of the case to the Appeals Board was provided by the district office. Thus, we conclude that the parties were not provided with the notice of transmission required by section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on August 4, 2026.

II.

Initially, we address the absence in EAMS of the supplemental briefing that the Padres evidently attempted to file in response to our invitation. Based on the representations in the Petition and the Answer, we have no reason to doubt that the Padres did in good faith attempt to file such briefing, and we can only conclude that its absence in EAMS is attributable to some form of technical error, whether in EAMS itself or in the filing process. In either case, we agree it is appropriate to consider both the instant Petition for Reconsideration and that filing, which was attached to the Petition, in reaching our decision in this matter.

Beginning with the supplemental pleading, it is clear upon review that nothing in that pleading would have changed our analysis, for the simple reason that it does not engage

[3] 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.

meaningfully with the statement in *Gandy* on which we requested further briefing. Indeed, as evidenced by what was attached to the Petition for Reconsideration, the Padres' supplemental briefing addresses our inquiry in only a single sentence, reproduced here in full:

> The Gandy decision did not decide anything related to a contract, it dealt with the application of Labor Code section 3600.5(c)(d) and the dicta in that decision that the WCAB cites in their order allowing further briefing is both inapplicable to the facts of this case and not any statement of law related to the formation of a contract of hire in California.

(See Further Supplemental Briefing at p. 2, as attached to the Petition for Reconsideration.) Aside from this base assertion, *Gandy* is not otherwise mentioned in the supplemental briefing at all, much less engaged with meaningfully. Instead, the supplemental pleading simply quotes other, prior precedent, which focused on the location of acceptance. As noted in our original opinion, we have no quarrel with the idea that *Gandy* is based upon a novel rationale for finding hire in California, namely the employer's status as a California-based team. The problem for the Padres is that *Gandy* is binding precedent to which we must defer, rendering the Padres' citation to other, prior precedent irrelevant unless it represents an actual split of authority – which the supplemental pleading makes no effort to demonstrate, and which we do not agree is the case, as described below. A single sentence claim that the passage in question is "dicta" and therefore "not any statement of law" is not a meaningful legal argument.

The Petition for Reconsideration more thoroughly engages with the question we asked the parties to brief, but it does not persuade us that we are free to disregard *Gandy's* reasoning and statement that hires by California-based teams should be considered to be hires in California. That *Gandy* involved a different factual situation than the one presented here is not the operative question; if different factual situations rendered precedent nonbinding, no case would ever be binding on any other case, because by definition the facts of every case are different. The question is not whether *Gandy* dealt with a different factual situation in the abstract, but whether *Gandy*'s view of hire in California is necessary to the decision.

To that end, it appears that the Padres misunderstand our prior opinion, which found that *Gandy's reasoning* equating hire by a California-based team and hire in California was central to its holding. As stated in the Decision After Reconsideration:

> Nor do we think that *Gandy*'s statement can be dismissed as mere dicta simply because *Gandy* itself did not involve an applicant who was hired by a California-

> based team. To the contrary, the conflation of hire *by a California-based team* with hire *in California* for purposes of workers' compensation law is central to the rationale for *Gandy*'s holding that we had misinterpreted section 3600.5. If work for (and therefore hire by) a California-based team as described in subdivision (d) is *not* equivalent to hire in California as described in subdivisions (a) and (c), the distinction our prior jurisprudence drew between those two terms would rest upon the plain language of the statute, and the *Gandy* decision would lack any articulated basis for either rejecting our interpretation or for ignoring that plain language itself.

(Opinion and Decision After Reconsideration, at pp. 9–10.) In other words, the *Gandy* court's view that hire *by a California-based team* constitutes hire *in California* is the *reason* for its holding that section 3600.5, subdivision (d) applied to the applicant in that case. The Padres are essentially asking us to defer to *Gandy*'s ultimate holding while ignoring the reasoning that underpins that holding. We do not believe that binding precedent can be so easily sidestepped.

That *Gandy*'s view of hire in California is not dicta is aptly illustrated by reference to the law of what constitutes binding appellate authority. "'It is axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered.'" (*Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659, 680, quoting *Chevron U.S.A., Inc. v. Workers' Comp. Appeals Bd.* (1999) 19 Cal.4th 1182, 1195.) Mere observations by an appellate court are dicta and not precedent, unless a statement of law was "necessary to the decision, and therefore binding precedent[.]" (*Krupnick v. Hartford Accident & Indemnity Co.* (1994) 28 Cal.App.4th 185, 199.)

Here, to understand why *Gandy*'s statement is not dicta, it is useful to situate it within the larger dispute *Gandy* considered. *Gandy* involved the question of whether section 3600.5, subdivisions (c) and (d) applied to professional athletes who had been hired in California by at least one employer during the period of their cumulative injury, but who were not hired in California by any employers during their final year of employment. (See *Gandy, supra,* 114 Cal.App.5th at 1278.) The Appeals Board had previously held that the subdivisions did not apply in such circumstances, and therefore that the exercise of WCAB jurisdiction was appropriate under section 3600.5, subdivision (a), which provides subject-matter jurisdiction over claims filed by injured workers who were hired in California, even if their injuries occur elsewhere. (See, e.g., *Hansell v. Arizona Diamondbacks* (2022) 87 Cal.Comp.Cases 602.) The fundamental question in the case was therefore the validity of the Appeals Board's interpretation – an interpretation which, as the *Gandy* court recognized, was due "appropriate" weight unless it was "clearly erroneous or

unauthorized under the statute." (*Gandy, supra,* 114 Cal.App.5th at 1275, internal citations omitted.)

With that background in mind, we turn to the wider passage in which *Gandy*'s statement regarding hire in California appears:

> After examining the legislative history relating to sections 3600.5(c) and (d), the WCAB determined "the Legislature did not intend for [sections 3600.5(c) and (d)] to apply to athletes who have been hired in California by at least one employer during the cumulative trauma injury period." The WCAB's interpretation is fundamentally flawed.
>
> The overriding problem with the WCAB's interpretation is that it renders superfluous the plain language of section 3600.5(d), which specifically addresses professional athletes who ultimately suffer a cumulative injury after having been hired by one or more California-based teams at some point in their career. A "'California-based team'" is one that plays a majority of its home games in California. (§ 3600.5, subd. (g)(2).) Under sections 3600.5(c) and (d), a professional athlete claiming a cumulative injury who has worked for both a California employer and other employers is exempted from coverage under California's workers' compensation law if all the teams in his or her final year of employment as a professional athlete are exempt, unless the athlete worked for fewer than seven total seasons for non-California teams and worked for California teams or in California for at least two seasons or 20 percent of his or her total career duty days. Under the plain language of sections 3600.5(c) and (d), a single California contract or a single season of full-time, regular work in California is not, by itself, enough. The WCAB's interpretation completely (and improperly) ignores this statutory language. (*Shoemaker v. Myers, supra,* 52 Cal.3d at p. 22 [we do not "construe statutory provisions so as to render them superfluous"].)

(*Gandy, supra,* 114 Cal.App.5th at 1279.)

As is clear from review of this passage, the *Gandy* court's reasoning fundamentally relies upon this equation of work for a California-based team and hire in California. *Gandy* first says that the problem with the Appeals Board's interpretation of section 3600.5 is that it "renders superfluous the plain language of section 3600.5(d), which specifically addresses professional athletes who ultimately suffer a cumulative injury after having been hired by one or more California-based teams at some point in their career." (*Gandy, supra,* 114 Cal.App.5th at 1279.) Critically, however, section 3600.5, subdivision (d) does not actually reference hire *in California*, instead referencing only *work for California-based teams* – and therefore, by implication, hire by California-based teams:

> (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*.

(§ 3600.5(d)(1)(A) (emphasis added).) The Appeals Board's interpretation of the statute distinguished these terms, based upon the premise that an athlete could be hired by and work for *a California-based team* without having been hired *in California*. (See, e.g., *Hansell, supra,* 87 Cal.Comp.Cases at pp. 615–618; *Kouzmanoff v. Texas Rangers* (2024) 2024 Cal. Wrk. Comp. P.D. LEXIS 189; *Farley v. San Francisco Giants* (2020) 86 Cal. Comp. Cases 129.)

Accordingly, *Gandy*'s statement that our interpretation of section 3600.5, subdivision (d) renders the subdivision superfluous relies entirely upon this equation of work for and hire by *a California-based team* with hire *in California*. If hire by a California-based team is *not* equivalent to hire in California, it is the *Gandy* opinion itself which rewrites the plain language of the statute to say something it does not.

The *Gandy* opinion then goes on to make this explicit, stating that, "significantly," work for a California-based team will essentially *always* amount to hire in California based upon its reading of a prior precedent, *Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15:

> The WCAB contends its reading of the statute does not render section 3600.5(d) superfluous because it could still apply in a situation in which the employee is hired by a California-based team, but under a contract entered in another state, with the employee assigned to play for an out-of-state affiliate, such that he or she does not regularly work in California. This argument strains credulity.
>
> Significantly, in determining whether a particular contract is a California contract for hire, California courts ordinarily apply a liberal construction of both the law and the facts in favor of finding California jurisdiction. (*Bowen, supra,* 73 Cal.App.4th at p. 25.) The *Bowen* court explained through a series of examples that this rule allows even a relatively minimal connection between the contract and the State of California to be sufficient to construe the contract as a California contract for hire, even if the typical rules of contract interpretation would deem the contract to have been made somewhere else. (*Id.* at pp. 20–25.) Accordingly, it is unlikely a California-based team would *ever* be determined to have entered a non-California contract for hire, for the simple reason that the California-based team's location in California would supply the necessary connection to California to deem the contract a California contract.

(*Gandy, supra,* 114 Cal.App.5th at 1280 (emphasis original).) In other words, the *Gandy* court rejected the Appeals Board's interpretation of the statute because it did not believe it was realistically possible to be hired by a California-based team without also having been hired in California. As a result of that view of the law, the *Gandy* court interpreted the reference to work for California-based teams in subdivision (d) as also necessarily a reference to hire in California, therefore evincing intent to apply subdivision (d) even if the applicant was hired in California.

At the risk of stating the obvious, courts do not introduce dicta with the word "significantly" – indeed, it is difficult to see how something considered significant by the deciding court could ever be dismissed as dicta. To do so would essentially amount to a judgement that the deciding court itself was incorrect about what was or was not significant to its decision. We take the *Gandy* court at its word when it stated that it believed that the equivalence between work for a California-based team and hire in California was significant to its decision, especially when the holding in the case – that the plain language of the statute shows that subdivision (d) applies even in the face of a California hire – would not make sense in the absence of that equivalence.

The other objections raised in the Petition for Reconsideration are similarly unavailing. Initially, the Petition objects to the fact that the case number corresponding to applicant's third case, ADJ No. 14679364, appears on the caption of the Decision After Reconsideration, despite that case not having yet proceeded to trial. However, the Decision After Reconsideration itself notes as much. (See Decision After Reconsideration, at p. 2, fn. 1.) More importantly, the Order After Reconsideration references only the two case numbers which are directly subject to these proceedings. The third case number appears on the caption of the Decision After Reconsideration (and, for that matter, on this case caption) simply as a matter of administrative convenience. Nothing in the Decision After Reconsideration or in this decision alters the status of that case in any way.

Second, the Petition for Reconsideration suggests that the equivalence between work for a California-based team and hire in California is not necessary to the holding in *Gandy* because of the following passage:

> Moreover, even if sections 3600.5(a), (c), and (d) were in conflict (and we do not find they are), sections 3600.5(c) and (d), as the later and more specific enactments, would take precedence over the earlier and more general section 3600.5(a). (*State Dept. of Public Health v. Superior Court, supra,* 60 Cal.4th at pp. 960–961.)

(*Gandy, supra,* 114 Cal.App.5th at 1280.) The flaw in this argument should be apparent from review of the sentence in question: it is based on a premise – that the subdivisions are in conflict – which the *Gandy* court explicitly disavows. By definition, a holding cannot be based upon a disavowed premise. Moreover, even if the statement were not dicta, it too relies on the equation of work for California-based teams with hire in California, because in the absence of that conflation, the subdivisions of the statute *would not conflict* since each would address a different factual and legal situation – hire in California versus work for a California-based team. The Appeals Board's prior interpretation of the statute was based on precisely that basis, harmonizing the statutory subdivisions as required by the law of statutory interpretation. This argument therefore only reinforces the conclusion that the equation of hire *by a California-based team* and hire *in California* is critical to every aspect of the *Gandy* decision.

The Padres' suggestion that this case should be governed not by *Gandy* but by *Tripplett v. Workers' Comp. Appeals Bd.* (2018) 25 Cal.App.5th 556 is similarly illustrative of how *Gandy* has refined the law. *Tripplett* did not involve a California-based team and contains no discussion of the legal relevance of a team being based in California. (See *id.* at p. 559.) It therefore stands for the proposition that where the hiring is *not* by a California-based team, the location of hire is determined by the location of the offeree at the time the offer was accepted. But *Gandy's* reasoning distinguished cases like the present one on the basis that the status of the employer as a California-based team is a relevant distinction which mandates a different result. By distinguishing this case from ones like *Tripplett, Gandy* carved out a subsection of cases like this one that are subject to its rule, not to the rule of *Tripplett.*

The Padres also assert that we should not follow *Gandy* because its equation of work for a California-based team with hire in California was raised *sua sponte*, quoting the Appeals Board's petition for rehearing in that case. (Petition for Reconsideration, at p. 6.) It is true that the *Gandy* court chose to rely on reasoning not raised by any party or by the Appeals Board. But the citation the Padres make here illustrates the fundamental flaw in this argument: the Appeals Board made the *Gandy* court aware of this via its petition for rehearing. That the *Gandy* court chose not to modify this aspect of its opinion[4] shows that it was happy with its reasoning and saw no reason to

[4] The *Gandy* court, while denying the petition for rehearing, did make several minor corrections to its opinion. However, none of the corrections touched the issue at play here, namely the equation of hire by a California-based team with hire in California.

depart from it. If anything, the petition for rehearing therefore strengthens the case for the *Gandy* court knowing exactly what it was doing in resting its holding upon the idea that work for a California-based team is equivalent to hire in California.

Finally, the Padre*s* suggest that the Appeals Board took an inconsistent approach in another recent panel decision, *Danzey v. Aravo Solutions, Inc.* (2026) 2026 Cal. Wrk. Comp. P.D. LEXIS 164. As alleged in the Petition for Reconsideration:

> Notably, the WCAB just issued the decision of *Danzey v. Aravo Solutions, Inc. (2026) Cal. Wrk. Comp. P.D. Lexis 164 (ADJ9483679)*. The WCAB found no jurisdiction over the claim. Applicant resided in Florida (*supra at 3)*, signed the contract of hire in Florida (*supra at 3*) and did not work in California (*supra at 3*). The employer's headquarters were in California (*supra at 3*) and the Applicant's paychecks had an address in California (*supra at 4*). The case states, "[u]nder binding appellate precedent, the location of hire for the purposes of *sections 3600.5(a)* and *5305* is the location the offeree accepts the offer of employment." (*supra at 15*.) The WCAB held in *Danzey* that there is binding appellant *[sic]* precedent yet fails to follow that precedent in this case. The WCAB went on to hold, "[b]ased upon the above, we conclude that applicant was hired in Florida, regularly employed in Florida, and that the alleged injuries occurred in Florida. We therefore agree with the WCJ's determination that applicant has not shown any statutory basis for the exercise of subject matter jurisdiction over her claim. Accordingly, we will deny the Petition for Reconsideration" *(supra at 16)*. There is no difference in the facts of *Danzey* and the facts of this case, and the holding should be identical in both instances.

(Petition for Reconsideration, at p. 8.)

To be frank, this summary of the case borders on misrepresentation. Directly in-between the quotations included in the Petition for Reconsideration, the *Danzey* decision in fact did consider *Gandy*'s application to that case:

> Although not raised by the parties, a recent appellate decision, *Atlanta Falcons v. Workers' Comp. Appeals Bd.* (2025) ("*Gandy*") 114 Cal.App.5th 1268, 337 Cal. Rptr. 3d 705, suggested that it would be appropriate to deem a professional athlete employed by a California-based team to be hired in California simply based on the identity of the employer as a California-based team, even if the offer was in fact accepted elsewhere. (*Id.* at p. 1280.) Assuming for purposes of argument that it would be appropriate to extend this reasoning beyond California-based employers of professional athletes, the facts here do not clearly show that Aravo is a California-based employer in a comparable sense to the way that a California-based professional sports team is a California-based employer. Instead, the testimony was inconclusive at best, indicating that while Aravo is incorporated and "headquartered" in California, its primary place of

> business and "nerve center" are in Texas, where most meetings occur. (See MOH/SOE 9/8/2025 at pp. 3-5; MOH/SOE 11/13/2025 at pp. 2-3.) According to one witness, the founder lives in Spain, and most of the executives work out of Texas. (*Id.* at p. 3.) There are physical offices in Texas and Oregon, and a "small remote office in the United Kingdom." (*Ibid.*) Whatever arguable application *Gandy* might have to a non-athlete case involving an employer that is clearly and unambiguously based in California, this does not appear to be that case.

(*Danzey, supra,* 2026 Cal. Wrk. Comp. P.D. LEXIS 164 at p* 16.) We cannot conceive of any reason to omit this paragraph from discussion of the case, especially not if the claim being made is that *Danzey* is inconsistent with our holding in this case. Although we will give defense counsel the benefit of the doubt that there was no deliberate attempt to mislead, we trust that in future greater care will be taken to ensure that cases are fairly represented.

Most fundamentally, the Padres' arguments would be better directed to a court not bound to follow *Gandy*. To be clear, we agree that in practical terms *Gandy* represents an expansion of the prior understanding of what constitutes hire in California for purposes of workers' compensation law. As far as we are aware, no prior case has stated that a team's California-based status is enough to compel a finding that an injured worker was hired in California, even if they were not present here at the time they accepted the offer of employment. But that is what *Gandy* stated, and that reasoning underpins the case's holding. To the extent that the Padres believe that *Gandy* was wrongly decided – or, at a minimum, that its reasoning was fundamentally flawed – those arguments must be addressed to a court empowered to reach a contrary result.

For the foregoing reasons, and for the reasons stated in our Opinion and Decision After Reconsideration issued on July 21, 2026,

IT IS ORDERED, that the Petition for Reconsideration of the Opinion and Decision after Reconsideration issued on July 21, 2026 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 21, 2026

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

JOEL GARCIA
MIX & NAMANNY
BOBER, PETERSON & KOBY, LLP

AW/kl

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