

**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 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.

Applicant sought reconsideration of the May 12, 2021 Joint Findings of Fact (“Findings of Fact”), wherein the workers’ compensation administrative law judge (WCJ) found no jurisdiction over applicant’s specific and cumulative injury claims based upon findings that applicant was neither hired nor regularly employed in California by the San Diego Padres (“Padres”). Applicant asserted that the WCJ erred because defendant is a California-based team that directed and controlled applicant’s employment from California and that directed applicant to undergo surgery in this state for work-related injuries.

We received an Answer. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (“Report”), recommending that the Petition be denied.

Subsequent to the grant of reconsideration, the Court of Appeal issued *Atlanta Falcons v. Workers’ Comp. Appeals Bd. (Gandy)* (2025) 114 Cal.App.5th 1268 [90 Cal.Comp.Cases 997] (“*Gandy*”), a decision interpreting section 3600.5, subdivisions (c) and (d), and in particular, what constitutes “hire” in California for purposes of California workers’ compensation proceedings more generally. (See *id.* at p. 1280.) We therefore allowed the parties to provide supplemental briefing on the impact of *Gandy* on the present matter. (See Order Allowing Further Briefing,

4/17/26.) We specifically highlighted the following passage as having clear bearing on the parties' dispute:

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 v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 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 (bold added; italics original).)

We received supplemental briefing from applicant in response to our invitation. We did not receive supplemental briefing from the Padres.

We have considered the Petition for Reconsideration, the Answer, the supplemental briefing, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will rescind the Findings of Fact and substitute a new order finding that applicant was hired in California for purposes of California workers' compensation law and therefore eligible to bring both his specific and cumulative injury claims in this forum.

FACTS AND PROCEDURAL HISTORY

Applicant filed two Applications for Adjudication.¹ In Case No. ADJ13153374, applicant alleged a cumulative trauma injury sustained to multiple body parts while employed by the Padres as a professional baseball player from April 1, 2012 through March 25, 2021. Applicant's only employer during his professional career was the Padres. In Case No. ADJ13153421, applicant alleged a specific injury to his left elbow/arm, sustained on December 15, 2012.

The matter proceeded to trial on March 25, 2021, on the sole issue of subject matter jurisdiction over applicant's claims of injury, with both claims consolidated for purposes of trial.

¹ A third Application for Adjudication, Case No. ADJ14679364, was filed subsequent to trial in this matter. Because no ruling has been made as to subject matter jurisdiction in that case, we make no further reference to it in this opinion.

(Minutes of Hearing / Summary of Evidence (“MOH/SOE”), 3/25/21, at p. 3.) Exhibits were introduced and admitted without objection, with the exception of applicant’s deposition transcript, which was marked for identification only. (*Id.* at pp. 3–4.)

Applicant was the only witness to testify at trial. Applicant testified that he was recruited by the Padres when he was 18 years old. (*Id.* at p. 5.) Applicant tried out for the Padres at the “complex for the team.” (*Ibid.*) He signed a contract with the Padres in April of 2012, in the city of Santo Domingo in the Dominican Republic. (*Ibid.*) Applicant didn’t know the details of the contract, but he knew it was for seven years, and that it allowed him to be sent to any level in the Padres organization. (*Ibid.*)

Applicant’s first season was spent in the Dominican Republic with the Summer League Padres team. (*Ibid.*) He missed about three weeks of that season because of pain and inflammation in his left arm, but he did complete the season. (*Id.* at p. 6.) During the offseason, applicant hurt his elbow while preparing for the next season at the Padres’ direction. (*Ibid.*) He received an MRI on his left elbow in January 2013. (*Ibid.*) He was ultimately sent to California for surgery to reconstruct his elbow; he did not choose the location or the doctor. (*Id.* at pp. 6–7.) As far as applicant knew, it was the Padres’ decision to send him for surgery in California. (*Id.* at p. 6.) As part of the surgery, tissue was taken from applicant’s right knee. (*Id.* at p. 7.) His knee was fine before the surgery, but not afterward, when he had pain and numbness. (*Ibid.*) After the surgery, applicant was sent to Arizona, where he underwent rehabilitation for his arm and knee for two months, before then returning to the Dominican Republic. (*Ibid.*)

Applicant returned to playing baseball in April of 2014, but because of the injury and surgery, he wasn’t as fast, and had to alter his pitching mechanics. (*Ibid.*) He continued playing for the 2014 and 2015 seasons. (*Id.* at pp. 7–8.) In 2016, he was sent to Arizona for spring training, but he was released by the team at the end of March 2016. (*Id.* at p. 8.) He has not played professionally since, as a result of his elbow pain. (*Ibid.*)

For the duration of his employment, the Padres controlled all aspects of his employment; they decided if he was going on the disabled list, whether and where he underwent surgery, and his rehabilitation. (*Ibid.*) He continued to receive his regular pay while in rehabilitation, and applicant believes that the Padres paid for all aspects of the surgery and recovery. (*Ibid.*) He felt he had no choice but to undergo surgery in California because it was what the team had decided. (*Id.* at p. 9.)

On cross-examination, applicant clarified that the “complex for the team” he referred to was located in the Dominican Republic. (*Id.* at p. 9.) He lived in the Padres’ academy in the Dominican Republic after signing his contract. (*Ibid.*) The Padres also have a training complex in Arizona, which is where applicant stayed before and after his surgery in California. (*Ibid.*) Applicant spent only three days in California as part of his surgery; all the rest of his time was spent either in the Dominican Republic or in Arizona. (*Id.* at p. 10.)

On May 21, 2021, the WCJ issued the Findings of Fact. The WCJ found that applicant was hired outside California with regard to both claims. (Findings of Fact, at pp. 1, 2.) The WCJ found that applicant’s specific injury in Case No. ADJ13153421 was sustained outside California. (*Id.* at p. 1.) With regard to the cumulative trauma injury in Case No. ADJ13153374, the WCJ found that applicant was not regularly employed in California, and that his “limited and temporary activity in California is insufficient to overcome the statutory exemption provided Labor Code section 3600.5(c).” (*Id.* at p. 2.) Accordingly, the WCJ found that there was no subject matter jurisdiction over either of applicant’s claims. (*Id.* at pp. 1–2.) The appended Opinion on Decision makes clear that the WCJ’s determination that applicant was not hired in California was based upon the fact that he had signed the contract with the Padres while located in the Dominican Republic. (Opinion on Decision, at p. 3, 7.)

Applicant’s Petition for Reconsideration followed.

DISCUSSION

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.

Under California’s workers’ compensation law, benefits are to be provided for industrial injuries when the statutory conditions of compensation are met. (Cal. Const., art. XIV, § 4; §§ 3600 et seq., 5300 and 5301.) The statutes establishing the scope of the WCAB’s jurisdiction

reflect a legislative determination regarding California's legitimate interest in protecting industrially-injured employees. (*King v. Pan American World Airways* (1959) 270 F.2d 355, 360 ["The [California Workmen's Compensation] Act applies to all injuries whether occurring within the State of California, or occurring outside the territorial boundaries if the contract of employment was entered into in California or if the employee was regularly employed in California."].)

In general, the Workers' Compensation Appeals Board ("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.)

The WCAB is solely a creation of the Legislature, and thus its fundamental subject matter jurisdiction is limited by statute. Article XVI, section 4, of the California Constitution provides that the Legislature "is ... expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation." (Cal. Const., art. XIV, § 4.) Thus, in the absence of a statute affirmatively conferring subject matter jurisdiction over a claim to the WCAB, we cannot exercise jurisdiction over the claim. (*Tripplett v. Workers' Comp. Appeals Bd.* (2018) 25 Cal.App.5th 556, 562.) The requirement to demonstrate statutory subject matter jurisdiction is in addition to the significant connection or nexus to the state required by due process to support the exercise of jurisdiction under the *Johnson* line of cases referenced above. (See *Johnson, supra*, 221 Cal.App.4th at 1128.)

Section 5300 provides a general grant of jurisdiction over claims for compensation for work-related injuries occurring in the state of California. In addition, the WCAB can also assert subject matter jurisdiction over injuries occurring outside this state in certain circumstances. Section 3600.5, subdivision (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.)²

For nearly a century, it has been established law 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; *Bowen v. Workers’ Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 27 [64 Cal.Comp.Cases 745] [“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”]; *Johnson, supra*, 221 Cal.App.4th at p. 1126.)

Beginning in 2013, under certain circumstances additional requirements apply to professional athletes filing workers’ compensation claims involving occupational disease or cumulative trauma injuries. Section 3600.5(d) provides as follows:

- (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 any team other than a California-based team, and dividing that number by the

² 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].)

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(d).) “California-based team” means “a team that plays a majority of its home games in California.” (§ 3600.5(g)(2).)

As section 3600(d)(1) makes clear by reference, an important provision for determining the meaning of section 3600.5(d) is section 3600.5(c).

Section 3600.5(c) provides as follows:

(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.

(§ 3600.5(c).) This statutory provision applies to a cumulative trauma claim asserted by a professional athlete who is hired in a state other than California, when that athlete is temporarily doing work in California. (See, e.g., *Carroll v. Cincinnati Bengals* (2013) 78 Cal.Comp.Cases 655, 660 (Appeals Board en banc).)

The Legislature also included a note of intent, stating that the 2013 amendments to section 3600.5 should “have no impact or alter in any way the decision of the court in [*Bowen*].” (Stats. 2013 ch. 653 (AB 1309) § 3.). Because *Bowen* affirmed the exercise of jurisdiction based upon a hire in California, and based upon a detailed analysis of the legislative history of the statutory amendments, we previously held that subdivisions (c) and (d) of section 3600.5 did not apply to claims filed by professional athletes who could establish hire in California by at least one of their employers during the cumulative trauma injury period. (See, e.g., *Hansell v. Arizona Diamondbacks* (2022) 87 Cal. Comp. Cases 602, 611–618; *Kouzmanoff v. Texas Rangers* (2024) 2024 Cal. Wrk. Comp. P.D. LEXIS 189.)

However, in *Gandy* the Court of Appeal disagreed with our interpretation of section 3600.5, subdivisions (c) and (d), instead holding that both subdivisions apply to all claims filed by professional athletes after the effective date, even those where the professional athlete was hired in California during the cumulative trauma injury period by a prior employer. (*Gandy, supra*, 114 Cal.App.5th at p. 1278.) Significantly, the *Gandy* court’s determination that we had erred in interpreting subdivisions (c) and (d) was based upon the following reasoning:

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 v. Workers’ Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 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*, 144 Cal.App.5th at 1280 (bold added; italics original).)

In other words, the *Gandy* court viewed the distinction between being hired *in California* and being hired *by a California-based team* as illusory. According to *Gandy*, hire by a California team will effectively *always* result in hire in California for purposes of workers’ compensation law, “even if the typical rules of contract interpretation would deem the contract to have been made somewhere else.” (*Gandy, supra*, 114 Cal.App.5th at 1280.)

The facts of the case before us here perfectly correspond to the hypothetical situation that the *Gandy* court not only rejected, but found to “strain credulity.” (*Gandy, supra*, 114 Cal.App.5th at 1280.) Accordingly, we provided the parties with an opportunity to address the impact of *Gandy* on applicant’s claims. Applicant unsurprisingly submitted supplemental briefing agreeing with *Gandy*’s rationale, and urging us to hold in accordance with it that he was hired in California.

The Padres, however, submitted no supplemental briefing at all. Under the circumstances, we are puzzled by this choice to forgo the right to be heard, especially because the Padres’ original Answer correctly highlighted that we reached precisely the opposite conclusion in *Farley v. San Francisco Giants* (2020) 86 Cal. Comp. Cases 129 (writ den.), wherein we held that the San Francisco Giants’ status as a California-based team was not enough to serve to establish subject matter jurisdiction over a claim by an athlete who accepted the employment and performed work out of state. (See *Farley v. San Francisco Giants* (2020) 2020 Cal. Wrk. Comp. P.D. Lexis 173 at pp. 12–13.) In that opinion, we expressed the view that it was up to the Legislature to authorize the exercise of jurisdiction based on the employer’s status as a California-based employer if it wished to do so. (*Ibid.*)

Whatever the reasons for the Padres’ decision, *Gandy* is binding precedent to which we must defer in the absence of a contrary binding precedent. Although *Gandy* goes significantly beyond the approach taken in prior Court of Appeal decisions, which focused on the location of the offeree at the time that the offer of employment was accepted, no other Court of Appeal case appears to have addressed the precise situation presented here. 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. Defendant's choice not to file supplemental briefing only reinforces the point that there is no basis to distinguish *Gandy*'s directive.

As such, *Gandy* dictates that because applicant was hired by the Padres – clearly a California-based team – he was hired in California for purposes of California workers' compensation law, notwithstanding the fact he was located in the Dominican Republic at the time he accepted the offer of employment. We are therefore authorized to exercise jurisdiction over his claims by sections 3600.5, subdivision (a) and/or 5305.³ Accordingly, we will rescind the Findings of Fact and substitute a new order finding that applicant was hired in California for purposes of California workers' compensation law and is eligible to bring both his specific and cumulative injury claims in this forum.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the May 12, 2021 Joint Findings of Fact is **RESCINDED**, and the following order **SUBSTITUTED** therefore:

JOINT FINDINGS OF FACT

- 1. Applicant was hired in California for purposes of California workers' compensation law.**
- 2. As a result, subject-matter jurisdiction exists over both applicant's cumulative injury claim, Case No. ADJ13153374, and over his specific injury claim, Case No. ADJ13153421.**

³ Based on this determination, we need not consider applicant's alternative argument that the Padres' decision to send him for surgery in California creates another basis for subject matter jurisdiction over his claims.

3. Applicant's cumulative injury claim, Case No. ADJ13153374, is not barred by Labor Code section 3600.5, subdivision (c), because he was hired in California for purposes of California workers' compensation law.

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

JULY 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 & KOBAY, 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