WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

REED JOHNSON, *Applicant*

vs.

LOS ANGELES DODGERS; ACE AMERICAN INSURANCE, administered by SEDGWICK RIVERSIDE, *Defendants*

Adjudication Number: ADJ20427011
Van Nuys District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the July 22, 2026 Findings and Order ("F&O"), wherein the workers' compensation administrative law judge ("WCJ") concluded that applicant's entire claim for workers' compensation benefits is exempt from the California workers' compensation system pursuant to Labor Code[1] section 3600.5, subdivision (d) because applicant's last employer, the Washington Nationals ("Nationals"), is exempt according to subdivision (c) of the same section. Applicant contends the WCJ erred because (1) documentation relating to the Nationals' insurance coverage should not have been admitted at trial, and (2) even if the Nationals are exempt, liability may still properly be assessed against the Los Angeles Dodgers ("Dodgers"), one of applicant's prior employers during the alleged cumulative trauma injury period.

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

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will grant the petition for reconsideration and rescind the F&O, because the Nationals were never joined to the case.

[1] Further references are to the Labor Code unless otherwise stated.

FACTS AND PROCEDURAL HISTORY

Applicant filed an Application for Adjudication, alleging a cumulative trauma injury to multiple body parts sustained from July 15, 1999 to April 3, 2016 while employed as a professional athlete. The injury is listed as occurring at "The Los Angeles Dodgers" and the Dodgers are the sole employer listed on the Application. According to the Electronic Adjudication Management System ("EAMS"), the application has never been amended to allege other employers, nor has any other employer ever been joined to the case.

The matter proceeded to trial on April 29, 2026. Despite no employers other than the Dodgers having been joined to the litigation and despite the Application for Adjudication alleging a cumulative trauma only against the Dodgers, at trial the parties stipulated to the following employments during the alleged cumulative injury period:

Blue Jays	June 19, 1999 to March 23, 2008
Cubs	March 30, 2008 to November 5, 2009
Dodgers	February 4 2010 to November 1, 2010
Cubs	January 17, 2011 to July 30, 2012
Braves	July 30, 2012 to November 5, 2013
Marlins	February 2, 2014 to March 29, 2015
Nationals	March 31, 2025 to April 1, 2016

(Minutes of Hearing / Summary of Evidence ("MOH/SOE"), 4/29/2026, at p. 2.)[2] The parties also stipulated to the following with respect to insurance coverage:

> 2. At the time of injury, the employer's workers' compensation carrier was Ace American Insurance.

(*Ibid*.) The parties further stipulated that applicant (1) signed his first contract in California but that no other contracts were signed in California and (2) applicant did not spend 20% or more of his duty days in California during the final year of his career. (*Ibid.*) The issues for decision were listed as: (1) subject-matter jurisdiction over the claim pursuant to *Atlanta Falcons v. Workers' Comp. Appeals Bd. (Gandy)* (2025) 114 Cal.App.5th 1268 [90 Cal.Comp.Cases 997] ("*Gandy*") and (2) exemption under section 3600.5, subdivisions (c) and (d). (*Id.* at pp. 2–3.) Exhibits consisting of applicant's Dodgers contract, his baseball reference page and a listing of the games

[2] No more specific designations of applicant's employers were provided, though it is clear from the exhibits submitted and the other stipulations that each of these teams is the Major League Baseball team most commonly associated with that name; for example, the Blue Jays are the Toronto Blue Jays.

he played in during his career were admitted without objection. (*Id.* at p. 3.) Applicant objected to Exhibit B, which consists of insurance policies for the teams he was employed by, on the basis of a lack of foundation and authentication. (*Ibid.*) The exhibit was marked for identification only, with a ruling on admissibility reserved. (*Ibid.*) The matter was taken under submission, with the parties to file post-trial briefing.

On July 22, 2026, the WCJ issued her F&O. As relevant here, the F&O finds the Nationals – applicant's last employers during the alleged cumulative injury period, who have never been joined to the claim – exempt according to section 3600.5, subdivision (c). (F&O, at pp. 2–3.) As stated in the F&O:

> 13. The Applicant and the Washington Nationals satisfy all conditions per Labor Code section 3600.5 and are therefore exempted from the provisions of California's workers' compensation laws.
>
> 14. Defendant's Exhibit B, which is the workers' compensation insurance policy issued by Ace American Insurance for Washington Nationals, is admitted into evidence.

(*Id.* at p. 3.) The F&O goes on to state "IT IS FURTHER ORDERED that Applicant take nothing on his claim herein." (*Ibid.*)

The instant Petition for Reconsideration followed.

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 28, 2026, and 60 days from the date of transmission is October 27, 2026. This decision is issued by or on October 27, 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, according to the proof of service for the Report, the Report was served on August 28, 2026, and the case was transmitted to the Appeals Board on August 28, 2026. 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 August 28, 2026.

II.

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.)

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.)[3]

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"]; *Federal Insurance Co. v. Workers' Comp. Appeals Bd.* (*Johnson*) (2013) 221 Cal.App.4th 1116, 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

[3] 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].)

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 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, instead holding that subdivisions (c) and (d) 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, as long as they were not hired in California by the employer seeking to benefit from the subdivision (c) exemption. (*Gandy, supra,* 114 Cal.App.5th at p. 1278.)

Section 5500.5, meanwhile, delineates which employer is liable for compensation when a cumulative trauma claim has been established. As a general rule, section 5500.5 limits liability for cumulative trauma injury claims to "those employers who employed the employee during a period" of one year "immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury, whichever occurs first." (§ 5550.5(a).)

Turning to the dispute before us, we observe that although the Application for Adjudication alleged a cumulative injury claim only against the Dodgers, it is apparent from the stipulations of the parties at trial that applicant was in fact employed by a number of other teams from 1999 to

2016, the alleged cumulative injury exposure period. The last of those teams was the Nationals, which was also the only team to employ applicant during the last year of that period. As such, section 5500.5 would appear likely to limit liability for compensation to the Nationals, while sparing any of the other teams that employed applicant during the cumulative injury exposure period, including but not limited to the Dodgers, the only employer actually joined to this claim.[4] In accordance with this understanding, the Order portion of the F&O does not mention the Dodgers, making reference only to applicant and the Nationals.

We are therefore left in the uncomfortable position of evaluating the propriety of an order that applicant's claim is exempt based on findings related to an employer who was never joined to the claim, but who would have been the liable employer had the claim not been found exempt. Although the failure to join the Nationals was not raised by either party, we do not think we can simply let it pass without comment or correction. It is borderline axiomatic that an entity must be joined to the litigation as a party before a judgement can be rendered for or against it. (See, e.g., *In re Wren* (1957) 48 Cal.2d 159, 163 ["It is the general rule that a judgment may not be entered either for or against a person who is not a party to the proceeding, and any judgment which does so is void to that extent."].) That the Nationals appear to share an insurer with the Dodgers does not obviate the necessity of joining the employer who would actually be liable for benefits under section 5500.5. Indeed, section 5500.5 specifically requires applicants to list all the employers who employed them during the liability period, authorizes joinder of any employer not listed in the application who employed the applicant during the liability period, and mandates that the WCAB join "any additional employer when it appears that the employer is a proper party." (§ 5500.5(b).)

Admittedly, we are dealing here with the somewhat unusual situation where subject-matter jurisdiction over the claim as a whole – and therefore any possibly liability for the Dodgers – is contingent on whether section 3600.5, subdivision (c) exempts the Nationals, applicant's last employer during the cumulative injury exposure period. We therefore understand the impulse on the part of the Dodgers to wish to assert the Nationals' exemption for their own benefit. We also appreciate that such a vicarious assertion of the section 3600.5, subdivision (c) exemption may be appropriate in limited circumstances. For example, where there is no personal jurisdiction over the

[4] Based on the record before us, there does not seem to be any allegation or evidence that the dates of alleged exposure stipulated to by the parties correspond to anything other than a single, continuous period of injurious exposure, such that it constitutes a single cumulative injury pursuant to section 3208.1. (See generally *Western Growers Ins. Co. v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th 227, 234–235.)

final employer, in practical terms there may be no way for another employer to assert that the entire claim is exempt according to subdivision (d) without allowing that employer to assert that the final employer is exempt according to subdivision (c).

There is no indication here, however, of any circumstance which would have prevented joining the Nationals to this claim and allowing them to assert their own section 3600.5, subdivision (c) exemption, with the Dodgers further arguing that if that exemption is established, the entire claim is also exempt according to subdivision (d). In the absence of any reason why the Nationals could not have been joined to the litigation, we do not think that the findings regarding a non-joined employer can be sustained. This is amply illustrated by the question of what would have occurred if the WCJ had determined that the Dodgers had failed to prove the Nationals were exempt according to subdivision (c). In that eventuality, it seems obvious that the Nationals would have to be joined to the case as the presumptively liable party under section 5500.5, and that upon their joinder they could rightly object that it was a violation of their due process rights to have the question decided against them in their absence. The fact that the WCJ found in the Nationals' favor does not cure the basic problem that the Nationals' rights and liabilities were assessed without joining them to the claim.

Under the circumstances, therefore, we see no alternative but to rescind the F&O and return the matter to the WCJ to join the Nationals to the claim. Upon joinder, the Nationals may assert that they are exempt according to section 3600.5, subdivision (c), and the WCJ can then render a decision on whether the exemption applies based on the Nationals' arguments and evidence, rather than having to rely on submissions from the Dodgers, a third party. This will also presumably facilitate resolution of applicant's concerns regarding the Nationals' insurance documentation, as it will be the Nationals themselves introducing such evidence of insurance coverage.[5] If the WCJ finds that the Nationals have proved the section 3600.5, subdivision (c) exemption applies to them, the WCJ should then go on to make a finding as to whether the entire claim is exempt according to subdivision (d).

[5] Although our decision obviates the need to consider this argument directly, we do observe that applicant's citation to Evidence Code section 1401 is inapposite because the Evidence Code does not apply to workers' compensation proceedings. (See § 5708 ["All hearings and investigations before the appeals board or a workers' compensation judge . . . shall not by bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division."].)

We recognize that the parties may be frustrated by the delay to proceedings caused by joining the Nationals to the claim and retrying the matter with their participation, especially when the Nationals appear to share an insurer with the Dodgers, meaning that in practical terms the arguments and evidence presented may be unlikely to change substantially. We are cognizant that the workers' compensation system prioritizes substantial justice over procedure. However, we do not believe that informality in proceedings can be extended so far as to dispense with the requirement to join a necessary party to the claim prior to assessing its rights and liabilities. Nor do we believe it would be wise to turn a blind eye to the failure to join a necessary party simply because the judgement was ultimately rendered in that entity's favor. Substantial justice must be built upon the foundation of due process, and due process requires that a necessary party be joined before its rights are adjudicated.

Accordingly, we will rescind the F&O and return the matter to the WCJ to join the Nationals, and for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the July 22, 2026 Findings and Order is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July 22, 20226 Findings and Order is **RESCINDED**, and the matter is **RETURNED** to the trial level for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA
OCTOBER 23, 2026

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

REED JOHNSON
LAW OFFICES OF MARK SLIPOCK, P.C.
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