WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

MICAH FRANKLIN, *Applicant*

vs.

ARIZONA DIAMONDBACKS; ACE AMERICAN INSURANCE COMPANY/CHUBB, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES; TRAVELERS, as successor in interest to GULF INSURANCE COMPANY; CHICAGO CUBS; CIGA for LUMBERMEN'S MUTUAL, in liquidation, *Defendants*

Adjudication Number: ADJ13556390
Santa Ana District Office

OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION

Defendants Ace American Insurance Company/CHUBB, administered by Sedgwick Claims Management Services, and Arizona Diamondbacks seek reconsideration of the May 13, 2025 Findings and Order, wherein the workers' compensation administrative law judge (WCJ) found that applicant met the burden of demonstrating California's exercise of subject matter jurisdiction and defendants did not meet its burden to establish an exemption to subject matter jurisdiction per Labor Code, § 3600.5(b).[1]

Defendants contend that during applicant Micah Franklin's tenure with defendants, he was not a California resident, did not sign any contracts with defendants in California, and was only in California temporarily to play limited games. Defendants contend that it is exempted from California jurisdiction under section 3600.5(b), and also under sections 3600.5(c) and (d). Defendants cite to Arizona Revised Statute, section 23-902, as the reciprocal workers' compensation statute required in section 3600.5(b).

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

[1] All subsequent statutory references are to the Labor Code unless otherwise indicated.

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 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 her Report:

> Micah Franklin, while employed during the period June 1, 1990 through August 25, 2004, as a professional athlete, occupational group No. 590, at various locations, by the Chicago Cubs and the Arizona Diamondbacks, claims to have sustained injury arising out of and in the course of employment to head, neck, shoulders, back, spine, hips, elbows, wrists, hands, legs, knees, ankles, feet, toes, internal, ENT/TMJ, neuropsyche, hearing, vision, sleep, and chronic pain.
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> The Trial proceeded forward on June 10, 2024, November 13, 2024, and January 29, 2025. At the time of trial, the parties stipulated to the following:
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> 1. At the time of the injury, the employer's workers' compensation carriers were: CIGA, for Lumbermen's, in liquidation, for the Chicago Cubs, March 1, 1996 through March 1, 1999; Travelers/Gulf for the Arizona Diamondbacks, February 1, 2001 through February 1, 2003, only; and Ace American Insurance/CHUBB, administered by Sedgwick, for the Arizona Diamondbacks, June 11, 2004 through August 25, 2004, only.
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> 2. The employer has furnished no medical treatment.
>
> 3. No attorney fees have been paid, and no attorney fee arrangements have been made.
>
> The issues for Trial were as follows:
>
> 1. Whether there is subject matter jurisdiction over the Applicant's claim.

2. Whether the Arizona Diamondback are exempt from the exercise of subject matter jurisdiction under Labor Code § 3600.5(b). (Report, pp. 2-3.)

Applicant's playing career is as follows:

1. **New York Mets**: 1990 through 1991
2. **Cincinnati Reds**: 1992 through 1994
3. **Pittsburgh Pirates**: 1995
4. **Detroit Tigers**: 1996
5. **St. Louis Cardinals:** 1996 through 1997
6. **Chicago Cubs**: 1998
7. **Foreign League Teams**: 1999 through 2000; 2003
8. **Milwaukee Brewers**: 2001
9. **Arizona Diamondbacks:** 2002 to July 26, 2002, 2003 & 2004
10. **Chicago White Sox:** 2004 (Exhibit B, Opinion on Decision, p. 5.)

The Opinion on Decision states:

> The Applicant testified that he was born in San Francisco, California. He attended Abraham Lincoln High School in San Francisco. He was drafted right before the end of the senior year. He signed his contract in his house. He graduated from high school and then flew to Tennessee. He was drafted in the third round by the New York Mets. During his tenure with the Mets, he signed more than one employment contract. He recalled that he signed the first one in June 1990. Then in 1991, he was sent a contract addendum. He was also sent a contract in 1992. Out of the three contracts, none were signed outside of the state of California. He was mailed the contracts via express mail to his mother's house. This was his permanent residence. At some point, he was released by the Mets and signed with the Cincinnati Reds. (MOH/SOE, 11/13/2024, page 4, lines 15 – 23). During his career, all of his mail went to a San Francisco home. (MOH/SOE, 11/13/2024, page 5, line 2).
>
> In 1993 and 1994, while with the Reds, he was sent documents indicating how much he was going to make and where he was assigned. At the time that he signed the original contract with the Reds, he lived in San Francisco. (MOH/SOE, 11/13/2024, page 5, lines 9 - 11).
>
> The Applicant was traded to the Pirates in October, and it was sometime before December that he was elevated to a new roster. He signed the

contract when he was in his home in San Francisco. (MOH/SOE, 11/13/2024, page 5, line 18 - 20).

The Detroit Tigers claimed the Applicant during the off-season (MOH/SOE, 11/13/2024, page 5, line 24). Applicant signed the contract with the Tigers when he was in San Francisco.

He was then traded to the St. Louis Cardinals in June. He did not stay the whole season. The Applicant was in Toledo when he was traded. He went to Toledo and signed a piece of paper that he was a Cardinal. The Applicant signed more than one piece of paper while with the Cardinals.

He was in San Francisco when he signed the contract, and this was around November of 1996. At some point he was elevated to the Major League roster. While with the Cardinals, he played California games. At the conclusion of his time playing with the Cardinals, he played for the Cubs in Des Moines, Iowa. (MOH/SOE, 11/13/2024, page 6, lines 1 - 7). (Opinion on Decision, pp. 4-5.)

The November 13, 2024 Minutes of Hearing and Summary of Evidence states:

Applicant next played overseas for the Nippon Ham Fighters in Japan. He came back to Major League Baseball where he signed with the Brewers. The Applicant called a scout, Jim Bowden, with the Brewers, and he was offered an invitation to spring training. Jim Bowden was located in Chicago. However, the Applicant had the last say in where he would be employed.

Applicant was a resident of Arizona at this point. He was in Arizona when he accepted with the Brewers. However, he listed his address in San Francisco, as this was where all his mail went. There was no one at his home in Arizona as his family traveled with him.

When Applicant was in Japan, his mail was still being forwarded to San Francisco. He signed his contract with the Brewers, in Arizona. When he went to Maryvale, that was when he was presented with the contract. After the Brewers he played for the Arizona Diamondbacks in 2002. He was assigned to Tucson, Arizona. Applicant signed the contract and he was located in Arizona, which is where he signed the contract. His first stint, he played California games. The second time, he signed with the Diamondbacks.

In between the first time that he played with the Diamondbacks, and the second time, his contract was sold to a team in Korea. He then came back and signed with the White Sox. He signed his contract in Arizona. (MOHSOE dated November 13, 2024, pp. 6:14-7:3.)

DISCUSSION

I.

Former 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. (Lab. Code, § 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.
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> (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 June 17, 2025 and 60 days from the date of transmission is Saturday, August 16, 2025. The next business day that is 60 days from the date of transmission is Monday, August 18, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, August 18, 2025, 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

[2] 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.

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 June 17, 2025, and the case was transmitted to the Appeals Board on June 17, 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 Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on June 17, 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.)[3]

Sections 3600.5(b), (c), and (d) provide exemptions to California's jurisdiction:

> (b) (1) An employee who has been hired outside of this state and his or her employer shall be exempted from the provisions of this division while the employee is temporarily within this state doing work for his or her employer if the employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of a state other than California, so as to cover the employee's work while in this state if both of the following apply:
> (A) The extraterritorial provisions of this division are recognized in the other state.
> (B) The employers and employees who are covered in this state are likewise exempted from the application of the workers' compensation insurance or similar laws of the other state.
>
> (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

[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].)

> 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 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(b), (c) and (d).)

The issue here is whether defendants are exempted from California jurisdiction through the exemptions listed above. While the employment contract between applicant and defendants were signed in Arizona, it is undisputed that applicant signed employment contracts in California with different teams during his cumulative trauma period of June 1, 1990 through August 25, 2004. The question is whether a hire in California during the cumulative trauma period is sufficient to confer jurisdiction over every employer during that period. 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 defendants' 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 defendants Ace American Insurance Company/CHUBB and Arizona Diamondbacks Petition for Reconsideration of the May 13, 2025 Findings 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/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 13, 2025

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

MICAH FRANKLIN
PRO ATHLETE LAW GROUP P.C.
GOLDBERG SEGALLA
DIMACULANGAN & ASSOCIATES
GUILFORD, SARVAS & CARBONARA

LSM/*pm*

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