

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

FELIX RODRIGUEZ, *Applicant*

vs.

LOS ANGELES DODGERS, et al., *Defendants*

**Adjudication Number: ADJ9477566
Santa Ana District Office**

ORDER ALLOWING FURTHER BRIEFING

We granted reconsideration¹ to further study the factual and legal issues in this case.

Defendants New York Yankees, Philadelphia Phillies, San Francisco Giants and Cincinnati Reds (“Petitioners”) jointly sought reconsideration of the August 14, 2019 Findings & Order (“F&O”), wherein the workers’ compensation administrative law judge (WCJ) found that the provisions of Labor Code section 3600.5, subdivisions (c) and (d)² did not bar applicant’s cumulative injury claim because defendants failed to prove the factual predicates necessary to meet the requirements of the subdivisions. Petitioners assert that the WCJ erred because applicant’s last employer was exempt according to subdivision (d), meaning his entire claim is barred because he worked for more than seven years for non-California-based teams, thereby failing to meet the safe harbor clause of that subdivision.

We did not receive 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.) Here, petitioners contest whether applicant was hired in

¹ Commissioner Lowe, who was on the panel that granted reconsideration, no longer serves on the Appeals Board. Another panelist has been assigned in her place.

² Further references are to the Labor Code unless otherwise stated.

California, as well as the significance of that determination on the analysis under subdivisions (c) and (d). As such, the decision is directly relevant to this claim, and clearly requires consideration and discussion in our determination of the merits of the pending Petition for Reconsideration.

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.

In light of the above, the interests of due process favor providing the parties with the opportunity to submit further briefing on what impact, if any, *Gandy* has on the issues raised in the Petition for Reconsideration and in the instant case. (See generally *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295–1296.) If desired, the parties may also take the opportunity to address any other caselaw issued subsequent to our October 24, 2019 order granting reconsideration which they believe relevant.

Additionally, in light of the above, we would appreciate clarity on two other points raised in the Petition. First, the Petition states that petitioners argued to the WCJ that applicant’s last year of employment was exempt not only according to section 3600.5, subdivision (c), but also according to the “any other law” language of subdivision (d). (See Petition, at pp. 3–4.)³ Specifically, the Petition alleges a lack of personal jurisdiction over applicant’s last employer, the Tigres del Licey (“Tigres”), a team based in the Dominican Republic, as a trigger for the “any other law” language. (*Ibid.*) However, the trial brief that petitioners filed with the WCJ appears to rely solely on subdivision (c) to exempt applicant’s employment with the Tigres, and does not seem to assert that any employer is exempt according to the “any other law” language of subdivision (d). (See Trial Brief, at p. 4–6.) We therefore request that petitioners address in their briefing: (1) whether this argument was in fact raised for the first time in the Petition for Reconsideration, and (2) if not, when and where the argument was first raised, along with

³ The Petition gives the name of the team, incorrectly, as the “Tigres de Licey.”

appropriate citations to the record to substantiate its assertion. Other parties may also address this point in their briefing if desired.

Finally, we note that petitioners' arguments appear to rest on the assumption that three of applicant's employers, the Tigers, the Camden Riversharks ("Riversharks") and the Kia Tigers,⁴ are subject to analysis under section 3600.5, subdivisions (c) and (d). Subdivision (g), however, clarifies that these provisions apply only to athletes "employed **at either a minor or major league level** in the sport of baseball, basketball, football, ice hockey, or soccer." (§ 3600.5(g)(1) (emphasis added).) We therefore request that the parties' briefing address whether there is sufficient evidence in the record to determine whether the Tigers, the Riversharks and the Kia Tigers meet the definition of employers "at a minor or major league level," and, if so, in which direction the evidence points.⁵

WCAB Rule 10605 provides that when a document is served, the time to respond is extended by ten (10) days when it is served on a party outside of California. (Cal. Code Regs., tit. 8, § 10605(a)(2).) To be clear, and to allow all parties equal time to respond, we shall apply WCAB Rule 10605(a)(2) to all responding parties, whether outside of California or not. Briefing shall be filed in the Electronic Adjudication Management System (EAMS) within twenty (20) days of the date of service of this order plus an additional ten (10) days for mailing, so that all parties have thirty (30) days to respond. Untimely or misfiled responses may not be accepted or considered.

Once the period for submission of additional briefing elapses, we will consider any filings and render a final decision.

For the foregoing reasons,

NOTICE IS HEREBY GIVEN that the Appeals Board hereby provides the parties with the opportunity to submit further briefing on the issues raised in the Petition for Reconsideration and in this case in light of the decision in *Atlanta Falcons v. Workers' Comp. Appeals Bd. (Gandy)* (2025) 114 Cal.App.5th 1268 [90 Cal.Comp.Cases 997] and any other caselaw issued subsequent to the Opinion and Order Granting Reconsideration on October 24, 2019 which they believe relevant. The parties are also invited to respond to the two questions raised above, namely (1) when the assertion that the Tigres del Licey are exempt according to the "any other law" language of

⁴ The Kia Tigers are referred to by their full name in this decision to avoid confusion with the Tigres.

⁵ The remainder of applicant's employers are Major League Baseball teams, and therefore clearly meet the requirements of subdivision (g).

Labor Code section 3600.5, subdivision (d) was first raised, and (2) whether the Tigres del Licey, the Camden Riversharks and the Kia Tigers meet the requirements of Labor Code section 3600.5, subdivision (g)(1).

IT IS FURTHER ORDERED that any further briefing must be electronically filed in the Electronic Adjudication System (EAMS) within twenty (20) days of the date of service of this order plus ten (10) additional days for mailing for all parties. **All parties have a total of thirty (30) days to respond. Untimely or misfiled responses may not be accepted or considered.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 7, 2026

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

**FELIX RODRIGUEZ
NBO LAW
COLANTONI, COLLINS, MARREN, ET AL.
GUILFORD, SARVAS & CARBONARA, LLP
LEWIS, BRISBOIS, BISGAARD & SMITH, LLP
GURVITZ MARLOWE WOODLAND HILLS
LLARENA, MURDOCK, LOPEZ & AZIZAD, APC**

AW/kl

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