

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

JAMES BAKER, *Applicant*

vs.

**ST. LOUIS CARDINALS (in part); MINNESOTA VIKINGS, TRAVELERS
INSURANCE; BALTIMORE RAVENS FKA CLEVELAND BROWNS, BERKLEY
SPECIALTY INSURANCE; ST. LOUIS CARDINALS, CALIFORNIA INSURANCE
GUARANTEE ASSOCIATION for HOME INSURANCE, in liquidation; DETROIT
LIONS, CNA; FIREMAN'S FUND (ALLIANZ), *Defendants***

**Adjudication Number: ADJ8015380
Santa Ana District Office**

ORDER ALLOWING FURTHER BRIEFING

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

Applicant sought reconsideration of the July 2, 2019 Findings & Order, wherein the workers' compensation administrative law judge (WCJ) concluded that applicant could not recover compensation for his cumulative injury because recovery against the terminal employer, the Cleveland Browns ("Browns"),² was barred by Labor Code section 3600.5, subdivision (b),³ and because there was no basis under section 5500.5, subdivision (a) to roll back liability to the Minnesota Vikings ("Vikings"), applicant's prior employer.

Applicant contends that the WCJ erred because either (1) section 3600.5, subdivision (b) does not apply to this claim because applicant was hired in California during the period of injurious exposure, and/or (2) liability under section 5500.5, subdivision (a) should roll back if the terminal employer is exempt according to the former section.

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

² The Browns referred to in this decision are now known as the Baltimore Ravens and are legally a separate entity from the team that currently bears that name. This decision refers to the team as the Browns because that was their name at the time they employed applicant.

³ Further references are to the Labor Code unless otherwise stated.

We received two Answers, one from the Browns, and another from the Vikings and the St. Louis/Arizona Cardinals (“Cardinals”). 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). Although the subdivisions of section 3600.5 considered in that decision do not directly relate to this case, the language of subdivision (b) closely resembles that of subdivision (c), and *Gandy* also contains language addressing what constitutes “hire” in California for purposes of California workers’ compensation proceedings more generally. (See *id.* at p. 1280.) As such, the decision clearly merits 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 August 27, 2019 order granting reconsideration which they believe relevant.

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 August 27, 2019 which they believe relevant.

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/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 30, 2026

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

AW/kl

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

SERVICE LIST

JAMES BAKER

PRO ATHLETE LAW GROUP, P.C.

LEVITON, DIAZ & GINOCCHIO

LAW OFFICES OF ERIC G. ANDERSON

LEWIS, BRISBOIS, BISGAARD & SMITH

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

DIMACULANGAN & ASSOCIATES

FLOYD, SKEREN, MANUKIAN, LANGEVIN