WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JESUS OZORIA, ***Applicant***

vs.

SAN FRANCISCO GIANTS; ACE AMERICAN INSURANCE COMPANY, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, ***Defendants***

Adjudication Number: ADJ19285806
Santa Ana District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the October 1, 2025 Findings of Fact, wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a professional athlete from April 21, 2017 to April 29, 2021, claims to have sustained industrial injury to his head, neck, back, spine, arms, shoulders, elbows, wrists, hands, fingers, hips, legs, knees, ankles, feet, toes, internal [system], [ears, nose, throat/temporomandibular joint], neurological [system]/psych[e], hearing, vision, sleep, and chronic pain. The WCJ determined that the Workers' Compensation Appeals Board (WCAB) lacks subject matter jurisdiction over applicant's claim of injury.

Applicant contends that his regular employment with the San Francisco Giants, a California based organization, is sufficient to confer subject matter jurisdiction over his claim. Applicant further contends the Giants maintained "direct control" over all his baseball activities within the last year of employment, and that assuming arguendo no California "regular employment" exists, subject matter jurisdiction still exists because Labor Code[1] Sections 3600.5(c) and (d) do not apply.

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

[1] All further references are to the Labor Code unless otherwise noted.

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 will grant applicant's Petition for Reconsideration. Our order granting the 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.

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.
>
> (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 November 7, 2025, and 60 days from the date of transmission is January 6, 2026. This decision is issued by or on January 6, 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 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 November 7, 2025, and the case was transmitted to the Appeals Board on November 7, 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 section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on November 7, 2025.

II.

We highlight the following legal principles that may be relevant to our review of this matter.

Applicant asserts cumulative injury while employed from June 1, 2017, to March 29, 2019, by the Seattle Mariners, and from March 29, 2019, to April 29, 2021, by the San Francisco Giants. Defendant San Francisco Giants deny liability for applicant's claimed injury on various grounds including lack of subject matter jurisdiction.

The parties proceeded to trial on July 21, 2025, and placed in issue whether the WCAB had subject matter jurisdiction over the claimed injury pursuant to section 3600.5(a). (Minutes of Hearing, dated July 21, 2025, at p. 2:20.) The parties stipulated that applicant had no games or practices within California; that applicant underwent surgery in San Francisco, California, on August 10, 2019 paid for by the Giants; and that there are no contracts with the Mariners or Giants executed in California. (*Id.* at p. 2:14.) Neither party offered witness testimony, and the WCJ ordered the matter submitted as of August 4, 2025.

On October 1, 2025, the WCJ issued her decision determining in relevant part that the WCAB lacked subject matter jurisdiction over applicant's claim. (Finding of Fact No. 8.) The WCJ's accompanying Opinion on Decision summarized applicant's relevant occupational history as follows:

> During Applicant's time with the Seattle Mariners (Mariners), he played for their affiliate in the Dominican Republic. Joint Exhibit 1 and 2. During his time with the San Francisco Giants (Giants), he played with their affiliate in Augusta, Georgia and Salem-Keizer, Oregon. Id. Parties stipulated that there were no contracts for hire in California with either team and that Applicant had no games or practices in California. MOH dated 07/22/205, page 2. Applicant underwent a surgery on August 10, 2019, in San Francisco, California, while employed by the Giants. Id.

(Opinion on Decision, at p. 3.)

The WCJ explained that because applicant was not hired in California, and had neither games nor practices in California, applicant's "sole contact with California was for a surgery." (Opinion on Decision, at p. 4.) The WCJ explained that this single point of contact was insufficient to warrant the exercise of subject matter jurisdiction over the claim. (*Ibid*.)

Applicant contends that the San Francisco Giants were a California-based team which hired applicant for work outside of California and failed to provide applicant with notice of his rights and corresponding workers' compensation benefits. (Petition, at p. 4:1.) Applicant contends that the Giants' status as a "California-based team during his cumulative trauma period" is a sufficient basis upon which to invoke California jurisdiction. (*Id.* at p. 4:18; 5:2.)

Defendant's Answer responds that the lack of a California hiring and any games or practices played in California precludes subject matter jurisdiction over the claimed injury, and that "providing medical treatment in California for an out-of-state injury does not constitute 'injurious exposure' for purposes of labor code section 5500.5." (Answer, at p. 5:2.)

The WCJ's Report notes:

> Applicant has failed to establish a sufficient relationship with his injuries to make the application of California's workers' compensation law reasonable based on evidence in this case. There was no injurious exposure in California and no contracts for hire in California. Employment by a California-based team alone is not enough to confer subject matter jurisdiction.

(Report, at p. 3.)

The WCJ further observes that while "applicant referenced Labor Code Sections 3600.5 (c) and (d) as a means for the undersigned to confer subject matter jurisdiction … [t]hese subsections do not confer subject matter jurisdiction on their own, instead, they are statutory exemptions." (Report, at p. 5.) Accordingly, the WCJ recommends we deny reconsideration.

We observe that the inquiries required in determining the existence of either personal or subject matter jurisdiction are distinct. "Personal jurisdiction is not determined by the nature of the action, but by the legal existence of the party and either its presence in the state or other conduct permitting the court to exercise jurisdiction over the party … [s]ubject matter jurisdiction, by contrast, is the power of the court over a cause of action or to act in a particular way. (*Greener v. Workers' Comp. Appeals Bd.* (1993) 6 Cal.4th 1028, 1034-1035 [58 Cal.Comp.Cases 793].)

Here, we must determine in the first instance whether applicant was employed by a California-based team, and whether the California-based team's location in California would supply the necessary connection to California to deem applicant's contract a California hiring under sections 5305 and 3600.5. In addition, we must determine whether the exercise of subject matter jurisdiction is "legitimate and substantial in itself." (*Federal Insurance Co. v. Workers' Comp. Appeals Bd.* (*Johnson*) (2013) 221 Cal.App.4th 1116, 1124 (78 Cal.Comp.Cases 1257, 1263).)

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra,* 66 Cal.Comp.Cases at p. 475.) The WCJ's decision must "set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on," so that "the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record." (*Id.* at p. 476 (citing *Evans v. Workmen's Comp. Appeals Bd*. (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]).)

Additionally, the WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd*. (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave

matters undeveloped where it is clear that additional discovery is needed. (*Id*. at p. 404.) Here, based on our preliminary review, it appears that further development of the record may be appropriate.

III.

In addition, 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 Lab. Code, § 5803 ["The WCAB has continuing jurisdiction over 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 will 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 applicant's 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 applicant's Petition for Reconsideration of the Findings of Fact issued by a workers' compensation administrative law judge on October 1, 2025 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/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 6, 2026

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

JESUS OZORIA
PRO ATHLETE LAW GROUP
BOBER, PETERSON & KOBY

SAR/abs

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