WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

LINDA DIXON, ***Applicant***

vs.

MARTIN LUTHER KING JR. COMMUNITY HOSPITAL; AMERICAN GUARANTEE AND LIABILITY INSURANCE COMPANY THIRD PARTY ADMINISTRATOR, ***Defendants***

Adjudication Number: ADJ19284835
Van Nuys District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

We have considered the allegations of the Petition for Reconsideration, applicant's Answer, and the contents of the Report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated below and in the WCJ's Report, which we adopt and incorporate except as to the discussion of *Ray v. Workers' Comp. Appeals Bd.* (1985) 50 Cal.Comp.Cases 177 [1985 Cal. Wrk. Comp. LEXIS 3675] ("*Ray*") on pages 3-4, we will deny reconsideration.

DISCUSSION

I.

Former Labor Code section 5909[1] 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] All section references are to the Labor Code, unless otherwise indicated.

> (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 January 28, 2026 and 60 days from the date of transmission is Sunday, March 29, 2026. The next business day that is 60 days from the date of transmission is Monday, March 30, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, March 30, 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 WCJ's Report, the Report was served on January 28, 2026, and the case was transmitted to the Appeals Board on January 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 January 28, 2026.

---

[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.

II.

The WCJ found that applicant was an employee of defendant Martin Luther King Jr. Community Hospital on July 26, 2023.

Under section 3357, "[a]ny person rendering service for another, other than as an independent contractor, or unless expressly excluded herein, is presumed to be an employee." (Lab. Code, § 3357.) Section 3351 defines "employee" as "every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed." (Lab. Code, § 3351.) Thus, unless it can be demonstrated that a worker meets specific criteria to be considered an independent contractor or fits within one of the several narrowly defined categories as an excluded employee, *all workers are presumed to be employees*. Here, the WCJ noted that "there is a presumption in favor of finding an employee-employer relationship." (Opinion, at p. 2, citing *Anaheim General Hospital v. Workers' Comp. Appeals Bd.* (*Craig*) (1970) 3 Cal.App.3d 468, 472.)

The applicant bears the burden of proof on employment. (Lab. Code, § 5705(a) [burden of proof rests upon the party holding the affirmative of the issue].) Once the presumption of employment is established, the burden shifts to the employer to establish that the injured worker was an independent contractor or otherwise excluded from protection under the Act. (*Johnson v. Workmen's Comp. Appeals Bd.* (*Johnson*) (1974) 41 Cal.App.3d 318, 321 [39 Cal.Comp.Cases 565]; Lab. Code, § 3202.5.)

Upon review, we conclude that applicant was rendering service to defendant on July 26, 2023, such that a presumption of employment was established under sections 3351 and 3357. The WCJ correctly determined that based on the job offer by defendant, and acceptance by applicant, "there was already an employment relationship at the time of Applicant's injury." (Opinion, at p. 3.) We observe, further, that applicant was on the defendant's premises on the date of injury rendering service because she was there to provide the human resources specialist with the forms applicant had completed following her "New Hire Onboarding Appointment," as required by defendant. The WCJ correctly determined that applicant met her burden of proof as to employment.

Once the presumption of employment was established, the burden shifted to defendant to affirmatively prove that applicant was performing this service as an independent contractor or was otherwise excluded from protection under the Act. (*Johnson, supra,* 41 Cal.App.3d at p. 321; see also *Castroll v. County of Los Angeles Sheriff's Department, PSI* [June 1, 2023, ADJ11603234]

2023 Cal. Wrk. Comp. P.D. LEXIS 134; Lab. Code, §§ 3202.5, 3352, 5705(a).) Here, defendant failed to do so. Defendant conceded that there was "a job offer dated July 17, 2023 (Applicant's Exhibit 3), and applicant accepted the offer." (Petition, at p. 4.) Defendant nevertheless argued that there was no employment relationship on the date of injury, noting that applicant "was never on MLK Hospital's payroll," that applicant had "a job offer with contingencies" and that "applicant never rendered any services for MLK Hospital." (Petition, at pp. 2 and 4.) Defendant failed to cite any applicable law to support its claims that applicant's payroll status was relevant, that applicant was not rendering service, or that there was no employment relationship. Each of these arguments is without merit. Thus, defendant has not met its burden to affirmatively prove that on July 26, 2023 applicant was an independent contractor or was otherwise excluded from protection under the Act.

III.

California Rules of Court, Rule 8.1115(a), prohibits citing to and relying upon unpublished appellate opinions in California, except under specified circumstances inapplicable here. The Rule states, in relevant part:

(a) Unpublished opinion

> Except as provided in (b), an opinion of a California Court of Appeal or superior court appellate division that is not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action.

(Cal. Rules of Court, Rule 8.1115(a).)

Here, both applicant and the WCJ cited an unpublished Court of Appeal opinion, *Ray*, for its holding regarding employment. (Applicant's 10/14/25 Trial Brief, at p. 3; Applicant's 1/28/26 Answer, at p. 2; Opinion on Decision, at p. 3; Report, at pp. 3-4; citing *Ray*, *supra*, 50 Cal.Comp.Cases 177.) Applicant and the WCJ erred in citing this unpublished opinion, in violation of California Rules of Court, Rule 8.1115, subdivision (a). However, the WCJ did not rely solely on *Ray* in reaching his conclusions. Rather, the WCJ relied upon various Labor Code sections, including sections 3351, 3302 and 5903, in his discussion of the elements of an employment relationship. In addition, the WCJ relied upon a number of properly cited cases to support his finding that applicant was employed by defendant on the date of injury. (Opinion on Decision, at p. 2; Report at pp. 2-4, citing *Bryant v. Dees Liquor Store* (1995) 60 Cal.Comp.Cases 601, 605 (writ den.); *Reynolds Electrical & Engineering Co., Inc. v. WCAB* (1966) 65 Cal.2d 429; *SCIF v.*

WCAB (1976) 59 Cal.App.3d 647; *California Highway Com. v. Industrial Acci. Com.* (1919) 40 Cal.App. 465; *Anaheim General Hospital v. Workers' Comp. Appeals Bd.* (1970) 3 Cal.App.3d 468; *Gale v. Industrial Acci. Com.* (1930) 211 Cal. 137; *California Compensation Ins. Co. v. Workers' Comp. Appeals Bd.* (1998) 63 Cal.Comp.Cases 844 (writ den.); *State Farm Fire and Casualty Co. v. Workers' Comp. Appeals Bd.* (1997) 16 Cal.4th 1187; *In-Home Supportive Servs. v. Workers' Comp. Appeals Bd.* (1984) 152 Cal.App.3d 720.) Thus, we discern no basis for reversing the finding of employment at the time of injury, in this matter.

In the discussion of *Ray* in the Report, the WCJ accurately noted that his reliance on that unpublished decision mirrored our own, in our panel opinion in *Mateus v. High Sierra Pack Station,* 2021 Cal. Wrk. Comp. P.D. LEXIS 5. (Report, at p. 4.) However, to the extent that we cited and/or relied on *Ray* in *Mateus*, we were in error. We note that in *Mateus*, even if we had not included the reference to *Ray*, our decision would not change.

Accordingly, defendant's petition is denied.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 30, 2026

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

LINDA DIXON
THE DOMINGUEZ FIRM LLP
MAVREDAKIS PAIK

MB/*ara*

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

REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE ON PETITION FOR RECONSIDERATION

I. INTRODUCTION

The undersigned issued a Finding & Order (F&O) in which it was found that Applicant Linda Dixon was an employee of Martin Luther King Jr. Community Hospital on July 26, 2023. Petitioner timely filed a Petition for Reconsideration. Petitioner contends that the evidence does not justify the findings of fact and that the findings of fact do not support the order. The undersigned recommends that the Petition for Reconsideration be denied.

II. FACTS

Prior to July 6, 2023, Linda Dixon (Applicant) applied to a job opening for the position of RN Case Manager at Martin Luther King Jr. Community Hospital (Defendant). (Exhibit D.) Applicant interviewed for the RN Case Manager position and was informed via email by Human Resources (HR) that her interview went well. (Exhibit 5.) Applicant was formally offered the RN Case Manager position via an employment offer that was issued by Defendant on July 17, 2023. Applicant accepted the offer that same day when she acknowledged her "acceptance of this offer of employment" by signing Defendant's employment offer letter. (Exhibit 3.)

Applicant had requested a start date of August 14, 2023 and was given a start date of August 14, 2023 by Defendant in its offer letter. (Exhibit D; Exhibit 3.) On July 20, 2023, Applicant received an email from Michele Valdez, a HR Talent Acquisition Specialist, acknowledging Applicant's acceptance of the job offer and informing her that she would need to complete an Onboarding Appointment by July 25, 2023. (Exhibit 6.) On July 24, 2023, Ms. Valdez emailed Applicant confirming that she had been scheduled for a "New Hire Onboarding Appointment" the following day on July 25, 2023. (Exhibit F.)

After completing her Onboarding Appointment on July 25, 2023, Applicant called Ms. Valdez on July 26, 2023 to drop off some forms that had been provided to her as part of the new hire paperwork. (See Exhibit F; Exhibit G; Exhibit H.) Ms. Valdez met Applicant in Defendant's cafeteria where Applicant handed her an envelope with the new hire paperwork. (See Exhibit G; Minutes of Hearing and Summary of Evidence dated 4/16/25 at p. 5: 6-9.) Some of the paperwork still needed to be completed, so Applicant began filling out the remainder of the paperwork. (*Ibid.*) Applicant completed one of the remaining forms, and while filling out the second form, she began feeling like she was going to faint. (*Ibid.*) She was admitted to the hospital for treatment that day and was hospitalized for approximately 1 month following the incident. (Minutes of Hearing and Summary of Evidence dated 4/16/25 at p. 5: 6-9; Defendant's Post-Trial Brief at p. 4: 7-9.)

This case was set for trial before the undersigned solely on the issue of whether Applicant was an employee for Defendant at the time of the July 26, 2023 incident.

III. DISCUSSION

Pursuant to Labor Code section 5903, there are only five grounds on which reconsideration may be sought. Among those grounds, Petitioner contends that the evidence does not justify the findings of fact and that the findings of fact do not support the order. The undersigned recommends that the Petition for Reconsideration be denied.

EMPLOYMENT

The existence of an employment relationship is generally required for workers' compensation coverage. (*Bryant v. Dees Liquor Store* (1995) 60 Cal.Comp.Cases 601, 605.) An employee is defined as "every person in the service of an employer under any appointment or *contract of hire* or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed." (Lab. Code § 3351 (emphasis added).) An employment contract is governed by the same rules applicable to other types of contracts: there must be offer and acceptance in order to create an employment contract or contract of hire. (*Reynolds Electrical & Engineering Co., Inc. v. WCAB (Egan)* (1966) 65 Cal.2d 429, 433; *SCIF v. WCAB (Bate)* (1976) 59 Cal.App.3d 647, 652-653.) While a job applicant or seeker of employment is not an employee, once an employment offer is made by the employer and accepted, the employment relationship is established. (*SCIF v. WCAB (Bate)* (1976) 59 Cal.App.3d 647, 654-655*; Highway Com. v. Industrial Acc. Com.* (1919) 40 Cal.App. 465, 467-468.)

There is a presumption in favor of finding an employee-employer relationship. (*Anaheim General Hospital v. Workers' Comp. Appeals Bd. (Craig)* (1970) 3 Cal.App.3d 468, 472.) While this presumption can be rebutted, it is the alleged employer's burden to prove that an injured worker is precluded from coverage under the Workers' Compensation Act. (*Mateus v. High Sierra Pack Station*, 2021 Cal. Wrk. Comp. P.D. LEXIS 5; *Anaheim General Hospital v. Workers' Comp. Appeals Bd.* (1970) 3 Cal.App.3d 468, 472; *Gale v. Industrial Acci. Com.* (211 Cal. 137, 141.) The alleged employer must show by a preponderance of the evidence that the conditions fall short of establishing a contract of hire. (*California Compensation Ins. Co. v. Workers' Comp. Appeals Bd. (Hernandez)* (1998) 63 Cal.Comp.Cases 844.)

Moreover, under Labor Code section 3202, all reasonable doubts as to whether an injury arose out of employment are to be resolved in favor of the employee. In determining whether a person is an "employee" for the purposes of workers' compensation, courts are instructed to bear in mind Labor Code section 3202's mandate that workers compensation statutes are to be construed liberally in favor of awarding compensation. (See *State Farm Fire and Casualty Co. v. WCAB (Leonard)* (1997) 16 Cal.4th 1187, 1196; *In-Home Supportive Services v. WCAB (Bouvia)* (1984) 152 Cal.App.3d 720, 733.)

***

Here, there was already an employment relationship at the time of Applicant's injury. Defendant sent Applicant a job offer, which Applicant accepted, and Defendant acknowledged receipt of Applicant's acceptance of the job offer. Thus, all of the elements of an employment relationship were present. . . . Here, there was a clear contract of hire: Applicant was offered a job

and accepted the job and the acceptance was acknowledged by Defendant. Moreover, the job offer itself classifies Applicant as an employee: "We anticipate a productive working relationship. However, both you and the Hospital will have the right to terminate this **employment relationship** at any time, either with or without cause or advance notice." (Exhibit 3 (emphasis added).) So not only did Defendant construe its relationship with Applicant as an employer-employee relationship, the facts of this case meet the elements of an employment relationship under workers' compensation law.

Defendant contends that the job offer had contingencies, such as the onboarding process. However, the onboarding process is called "New Hire Onboarding." "New hire" denotes that someone has been hired (e.g., there is a *contract for hire*). Even the language underlined by Defendant in its Petition for Reconsideration, referencing an email to Applicant from HR (Exhibit E), did not state that Applicant was not yet an employee or that failure to complete the onboarding process would result in a rescinding of the job offer. On the other hand, Defendant ignores the more direct language in the offer letter, which explicitly characterizes their relationship as an employment relationship upon Applicant's acceptance of the job offer: "both you and the Hospital will have the right to terminate this **employment relationship** at any time." (emphasis added).

Based on the foregoing, it was found that Applicant was Defendant's employee on July 26, 2023.

***

… Defendant does not offer any other case which can be factually relied upon to argue that Applicant was not an employee at the time of the July 26, 2023 incident. Defendant cites 2 cases to demarcate the definition of an employment relationship but does not cite any case that discusses *when* the employment relationship begins, which is the crux of this case.

RECOMMENDATION

The undersigned respectfully recommends that the Petition for Reconsideration filed on January 23, 2025 be denied.

This Report and Recommendation was transmitted to the Recon Unit on 1/28/2026.

DATE: 1/28/26

MYKIL BACHOIAN
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE