

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

MIKE JENKINS, *Applicant*

vs.

**OAKLAND RAIDERS; DALLAS COWBOYS; GREAT DIVIDE INSURANCE,
administered by BERKLEY ENTERTAINMENT, *Defendants***

**Adjudication Number: ADJ12332497
Santa Ana District Office**

ORDER ALLOWING FURTHER BRIEFING

We previously granted reconsideration¹ in this matter. Defendant Oakland Raiders (“Raiders”) sought reconsideration of the July 13, 2021 Findings of Fact, wherein the workers’ compensation administrative law judge (“WCJ”) found applicant can bring his claim in California based upon the fact that he was hired by the Raiders in California and/or regularly employed here, and that Labor Code² section 3600.5, subdivisions (c) and (d) do not apply to his claim as a result of those facts. The Raiders assert that the WCJ erred, and that subdivisions (c) and (d) apply to all claims filed after the effective date of the subdivisions, whether or not there was California hire and/or regular employment for previous employers during the injurious exposure period. The Raiders also dispute whether applicant was actually hired in California.

We received 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), including their applicability when an athlete can establish statutory subject-matter jurisdiction pursuant to section 3600.5, subdivision (a).

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 specified.

Gandy also addressed what constitutes hire in California for purposes of section 3600.5, stating:

Significantly, in determining whether a particular contract is a California contract for hire, California courts ordinarily apply a liberal construction of both the law *and the facts* in favor of finding California jurisdiction. (*Bowen v. Workers' Comp. Appeals Bd.* (1999) 73 Cal.App.4th 15, 25[.]) **The *Bowen* court explained through a series of examples that this rule allows even a relatively minimal connection between the contract and the State of California to be sufficient to construe the contract as a California contract for hire, even if the typical rules of contract interpretation would deem the contract to have been made somewhere else. (*Id.* at pp. 20–25.) Accordingly, it is unlikely a California-based team would *ever* be determined to have entered a non-California contract for hire, for the simple reason that the California-based team's location in California would supply the necessary connection to California to deem the contract a California contract.**

(*Gandy, supra*, 1144 Cal.App.5th at 1280 (bold added; italics original).)

Here, it is undisputed that the Raiders were a California-based team at the time they employed applicant. *Gandy* therefore appears relevant to the question of whether applicant was hired in California. By the same token, *Gandy*'s holding regarding the applicability of subdivisions (c) and (d) to situations like this one, where there has been hire and/or regular employment in California, but not during the last year of the applicant's professional career, also appears relevant to the issues presented in this case. Accordingly, *Gandy* 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 *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 5, 2021 order granting reconsideration that 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 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 5, 2021 that 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/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 30, 2026

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

**MIKE JENKINS
PRO ATHLETE LAW GROUP
COLANTONI, COLLINS, MARREN, PHILLIPS & TULK**

AW/kl

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