WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

RANDY READY, SR., *Applicant*

vs.

ANGELS BASEBALL LP; ACE AMERICAN INSURANCE, administered by GALLAGHER BASSETT SERVICES, INC., *Defendants*

Adjudication Number: ADJ13858864
Santa Ana District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant Angels Baseball LP (defendant) seeks reconsideration of the March 23, 2026 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration (Decision), wherein we granted applicant's Petition for Reconsideration of a WCJ's December 15, 2025 Findings and Order that compensation for applicant's claimed injury was barred by Labor Code[1] section 5405. Our Decision determined in relevant part that applicant's date of injury was May 4, 2021 and that compensation was not barred by section 5405.

Defendant contends the date of injury cannot be later than the date of the Application for Adjudication of Claim and that applicant had knowledge in 2004 that his disability was related to prior employment sufficient to trigger the section 5412 date and the running of the statute of limitations.

We have received an Answer from applicant, along with a request for permission to exceed the 10-page limit for an answer specified in WCAB Rule 10940(d). (Cal. Code Regs., tit. 8, § 10940(d).) We grant applicant's request and have considered the Answer herein. The WCJ has not prepared a Report and Recommendation on Petition for Reconsideration (Report) because the Angels seek reconsideration of a decision of the Appeals Board.

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

We have considered the Petition for Reconsideration and the Answer, and we have reviewed the record in this matter. For the reasons discussed below, we will deny reconsideration.

FACTS

Applicant claimed injury to his neurological system, neuro/psychiatric system, stress, hips, digestive system, excretory system, arms, legs, knees, ankles, feet, toes, circulatory system, hips, elbows, wrists, hands, fingers, internal system, and in the form of chronic pain, ENT/TMJ, hearing loss, vision loss, sleep disturbance, and reproductive system, while employed as a professional athlete by defendant Angels Baseball LP from January 1, 1996 to September 30, 1997. Defendant denies injury arising out of and in the course of employment (AOE/COE).

The parties have selected Domenick Sisto, M.D., as the Qualified Medical Evaluator (QME) in orthopedic medicine, Stanley Majcher, M.D., as the QME in internal medicine, and Cheri Lewis, D.D.S., as the QME in dentistry. Applicant has also obtained medical reporting from Michael Einbund, M.D., in orthopedic medicine, Marvin Pietruszka, M.D., in internal medicine, Rosabel Young, M.D., in neurology, and Michael Wells, D.D.S., in dentistry.

On January 29, 2025, the parties proceeded to trial and framed for decision issues including injury AOE/COE, permanent disability, and need for further medical treatment. Defendant challenged the substantiality of the reporting of Drs. Einbund, Young, Wells, and Pietruszka, and further raised the affirmative defense of the statute of limitations. Defendant also sought equitable relief under the doctrine of laches. Applicant alleged, in relevant part, that defendant was estopped from asserting the statute of limitations. The WCJ continued the matter to hear testimony.

On May 7, 2025, the WCJ heard testimony from applicant and ordered the matter continued for additional testimony.

On September 17, 2025, the WCJ heard additional testimony from applicant and ordered the matter submitted for decision.

On December 15, 2025, the WCJ issued the F&O, determining in relevant part that applicant met his burden of establishing injury to the cervical spine, left knee, right thumb, right large toe, and internal system. The WCJ found that applicant's date of injury under section 5412 was "in 2004," that defendant was not estopped from asserting the running of the statute of limitations, and that compensation for applicant's claim was barred under section 5405. (Findings of Fact, Nos. 2-4.) The WCJ also determined that applicant's claim was barred by laches. (Finding

of Fact No. 5.) The WCJ determined that the section 5412 date of injury required both compensable disability and knowledge that such disability was work-related, and that knowledge in this instance was satisfied by the filing of a claim form on applicant's behalf in 2004. (Opinion on Decision, at pp. 6-7.)

On January 9, 2026, applicant filed a Petition for Reconsideration, contending in relevant part he had neither compensable disability nor knowledge of its industrial etiology until after the filing of the commencement of proceedings for the collection of benefits. (Petition for Reconsideration, dated January 9, 2026, at p. 12:21.) Applicant also asserted that defendant was estopped from asserting the statute of limitations for failure to provide a timely claim form. (*Id.* at p. 17:26.)

On January 16, 2026, defendant filed an Answer, responding that applicant filed a claim in 2004 that established the necessary convergence of knowledge and disability sufficient to fix a date of injury under section 5412 more than one year prior to the commencement of proceedings for the collection of benefits. (Answer to Applicant's Petition for Reconsideration, dated January 16, 2026, at p. 3:1.)

On March 23, 2026, we issued our Decision determining in relevant part that the filing of a workers' compensation claim on applicant's behalf in 2004 did not impart the knowledge required to establish a date of injury under section 5412 and commence the running of the statute of limitations under section 5405. We observed that per applicant's testimony, he had not initiated the 2004 claim and had never spoken to the filing attorney. We also observed that none of the claim filing documents and supporting documentation were signed by applicant and that evidence established that applicant's only involvement with the claim had been to instruct that it be withdrawn after learning of the filing. (Decision, at pp. 9-10.) We noted the first evidence establishing compensable disability arising out of industrial exposures was the May 4, 2021 medical reporting of orthopedic physician Dr. Einbund. We thus identified May 4, 2021 as the section 5412 date of injury, and concluded that because the instant claim was not filed more than one year from the date of injury, compensation was not barred under section 5405. (*Id.* at p. 11.)

Defendant's Petition contends that our Decision is inconsistent with statutory and case law authority. Defendant asserts the date of injury under section 5412 cannot be later than the date of the application because knowledge that compensable disability was caused by current or prior employment under section 5412 is imputed to an injured worker who meets with an attorney and

causes an application for adjudication to be filed. (Petition, at p. 3:12.) Defendant avers that applicant in the instant matter had knowledge in 2004 of his right to file a claim, and that such knowledge coupled with extant disability was sufficient to trigger the running of the statute of limitations. Defendant further contends we erred in not following the credibility determination of the WCJ, and that our decision in this regard isolates evidence and is otherwise unsupported in the evidentiary record. (*Id.* at p. 5:4.)

Applicant's Answer responds that the evidentiary record does not support applicant's actual knowledge of the work-relatedness of compensable disability in 2004, and that knowledge of a right to file any claim is distinct from knowledge of injury for purposes of section 5412. (Answer, at p. 6:18.)

DISCUSSION

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 April 30, 2026, and 60 days from the date of transmission is June 29, 2026. This decision is issued by or on June 29, 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 our review of the record, we did not receive a Report and Recommendation by a workers' compensation administrative law judge because defendant challenges a decision of the Appeals Board rather than the WCJ, and no other notice to the parties of the transmission of the case to the Appeals Board was provided by the district office. Thus, we conclude that the parties were not provided with the notice of transmission required by section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on April 30, 2026.

II.

The WCJ's trial level decision found that applicant met his burden to establish injury arising out of and in the course of employment to the cervical spine, left knee, right thumb, right large toe, and internal system. The WCJ further determined that applicant's date of injury was 2004, and that applicant waited more than one year to commence proceedings for the collection of benefits. Accordingly, the WCJ concluded that section 5405 barred compensation.

In support of this determination, the WCJ noted that applicant was employed as a professional athlete through 1997 and that a claim for workers' compensation benefits was filed in 2004. While the WCJ acknowledged that applicant had testified that the claim was filed without his consent, the WCJ found applicant's testimony not credible. The WCJ also noted that applicant testified he knew he could file a claim in 2004. (Opinion on Decision, at pp. 6-7.) Based on this analysis, the WCJ determined applicant's date of injury to be 2004, and because the date of filing

exceeded the statute of limitations, the WCJ ordered that applicant take nothing by way of his claim.

Our Decision examined the facts surrounding the 2004 filing, and based thereon, reached a different conclusion. We noted in the first instance applicant's testimony that the 2004 claim was filed without his consent, and that he had never consulted with the filing attorney or authorized the claim to be filed. (Decision, at pp. 9, 11.) We also noted that neither the DWC-1 claim form nor the Application for Adjudication of Claim was signed by applicant, but rather by the filing attorney. We also observed that proof of service of the application did not demonstrate service of the document on applicant. (*Ibid*.) We observed that approximately six weeks later, the filing attorney requested that the claim be voluntarily dismissed, but even then, that the filing attorney had learned that applicant did not wish to proceed through applicant's third-party personal attorney. (*Id.* at p. 10.) We acknowledged that the WCJ's credibility findings were entitled to great evidentiary weight, but also that the Appeals Board is empowered to resolve conflicts in the evidence, to make its own credibility determinations, and upon reconsideration to reject the findings of the WCJ and enter its own findings on the basis of its review of the record. (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500].) However, notwithstanding our authority on review, we also acknowledged that "any award, order or decision of the board must be supported by substantial evidence in the light of the entire record." (*Id.* at p. 317.)

Based on our review of the entire record, including applicant's testimony as reflected in the September 17, 2025 Transcript of Proceedings and the documentation surrounding the 2004 claim submitted in evidence by defendant, we concluded that the greater weight of the evidence did not support the WCJ's conclusion that the claim filing in 2004 satisfied the knowledge requirement under section 5412. Rather, we determined that the first evidence establishing compensable disability and applicant's knowledge that such disability was related to his prior employment was the reporting of applicant's orthopedic physicians in 2021. (*Id.* at p. 9.) The Decision thus concluded:

> [W]e are not persuaded that the 2004 claim filing was sufficient to impute to applicant the knowledge required to fix a date of injury under section 5412. Nor are we persuaded that applicant had the necessary background or training to recognize the relationship between his disability and prior employment. The first indication of the existence of a cumulative injury with a relationship to

> applicant's professional baseball activities was the orthopedic reporting of Dr. Einbund on May 4, 2021. We therefore conclude that applicant's date of injury pursuant to section 5412 was May 4, 2021 and will amend Finding of Fact No. 2 accordingly.

(*Id.* at p. 13.)

Defendant's Petition asserts that our decision ignores prior WCAB panel decisions in which the filing of an application for adjudication was sufficient to impute to an injured worker knowledge of the work-relatedness of his claimed compensable disability sufficient to establish the date of injury under section 5412. Defendant observes that in *Hosey v. Salinas Peppers* (August 30, 2016, ADJ8750596) [2016 Cal. Wrk. Comp. P.D. LEXIS 428], writ den. sub nom. *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd.* (*Hosey*) (2017) 82 Cal.Comp.Cases 414), a panel of the Appeals Board determined that applicant's meeting with an attorney and causing a claim form to be filed was sufficient to impute knowledge of the work-relatedness of his claimed injury under section 5412. Ostensibly applying the reasoning in *Hosey*, defendant concludes "the date of injury may not ever be later than the date an Application is filed." (Petition, at p. 3:19.)

We disagree with defendant's proffered distillation of the evidentiary standard for knowledge under section 5412 for a number of reasons. Initially, we note that as a panel decision, the panel's analysis in *Hosey* has no stare decisis value. Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425, fn. 6 [67 Cal.Comp.Cases 236].) Rather, panel decisions are citable authority and we consider these decisions to the extent that we find their reasoning persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 242, fn. 7 (Appeals Board en banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2 [54 Cal.Comp.Cases 145].) Here, and for the reasons discussed below, we do not find the analysis in *Hosey* to be applicable to the *facts* of this matter.

The WCAB is tasked with determining the statutory date of injury based on a review of all the available and relevant facts. "[F]or the purpose of the statute of limitations, the date of a cumulative injury 'requires concurrence of two elements: (1) compensable disability, and (2) knowledge of industrial causation … These elements present *questions of fact to be determined by the Appeals Board*.'" (*Hosey*, *supra*, 2016 Cal. Wrk. Comp. P.D. LEXIS 428, citing *Bassett McGregor v. Workers' Comp. Appeals Bd.* (1988) 205 Cal.App.3d 1102, 1110, [53

Cal.Comp.Cases 502], italics added; see also Lab. Code, § 5705.) Accordingly, the WCAB is tasked with a broad-based inquiry into the factual circumstances relative to both the knowledge and disability components of a date of injury inquiry under section 5412. This mandate is commensurate with the constitutional requirement that decisions of the WCAB accomplish substantial justice in its decisions. (Cal. Const., Art. XIV, § 4.) We are thus not persuaded that we should abandon our baseline inquiry in this regard in favor of defendant's suggested formulation that "the date of injury may not ever be later than the date an Application is filed." (Petition, at p. 3:19.)

We also note that the evidentiary record reflects no *medical* advice to applicant in 2004 that his disability was related to his prior employment. In *City of Fresno v. Workers' Comp. Appeals Bd.* (*Johnson*) (1985) 163 Cal.App.3d 467 [50 Cal.Comp.Cases 53], the Court of Appeal held that despite the injured worker's suspicion that his disability was caused by his employment, his heart troubles were not susceptible to lay diagnosis sufficient to establish knowledge for purposes of section 5412. The court wrote:

> Applicant enjoyed his work and did not believe it was stressful. However, he did form the belief more than one year before he filed his application for workers' compensation benefits that his cardiac problems were job related. He also discussed his claim with the claims person for the city. Applicant's belief that his disability was work related was not based on any medical advice. In fact, the only medical opinion on causation stated applicant's disability was not job related. That opinion was expressed in a report furnished about six months after applicant suffered his disability.
>
> Under these circumstances we conclude there is substantial evidence to support the board's decision that applicant was not chargeable with knowledge that his disability was work related. Applicant did not have the training or qualifications to recognize the relationship between the known adverse factors involved in his employment and his disability. Applicant's expression of the belief, shared by most disabled employees, that his employment caused his disability does not mandate a contrary conclusion.

(*Id.* at p. 473.)

Following a comprehensive review of the relevant caselaw, the *Johnson* court synthesized the rule that an injured worker "will not be charged with knowledge that his disability is job related without medical advice to that effect unless the nature of the disability and applicant's training,

intelligence and qualifications are such that applicant should have recognized the relationship between the known adverse factors involved in his employment and his disability." (*Id.* at p. 473.)

Here, defendant cites to no contemporaneous medical advice to the applicant in 2004 that he had sustained industrial injury or that the resulting disability was work-related. Had applicant's claim advanced to the point of a medical-legal evaluation identifying compensable disability arising out of applicant's work exposures, defendant's arguments in favor of a 2004 date of injury would be significantly more persuasive.

Under the holding in *Johnson*, however, even where there is no evidence of medical advice that compensable disability arises out of current or prior employment, we must also consider whether the nature of the disability and applicant's training, intelligence and qualifications are such that applicant should have recognized the relationship between the known adverse factors involved in his employment and his disability. Our Decision noted that applicant did not possess any particular training or background that would suggest an ability to recognize the existence of compensable disability arising out of his prior employment. (Decision, at p. 13.)

We also considered whether the evidentiary record supported imputing to applicant knowledge of the work-relatedness of compensable disability based on the filing of a claim on his behalf. Following our review of the entire record, we concluded the evidence does not support the assertion that applicant met with an attorney regarding the filing of a workers' compensation claim in 2004 or received advice as to the potential relationship between compensable disability and past work exposures. As we noted in our Decision:

> Applicant testified that the 2004 claim was filed "without his permission and consent," and that he "had never met Mr. Mix or had a conversation with him." (Minutes of Hearing and Summary of Evidence, dated May 7, 2025, at p. 7:13.) We observe that neither the DWC-1 claim form nor the Application for Adjudication of Claim filed in April, 2004 were signed by applicant. Rather, they were signed by Mr. Mix, holding himself out as "applicant's counsel." (Ex. G, Record of WCAB Santa Ana Claims File (ADJ864045), various dates, p. 34.) While there appear to be proofs of service for both the claim form and the Application for Adjudication, neither document establishes service on applicant. (*Id.* at p. 37.) Just six weeks after filing the application and claim form, Mr. Mix petitioned the WCAB to dismiss applicant's claim, stating "applicant has decided that he does not wish to proceed with his claim for [workers'] compensation benefits because of reasons that are personal to him." (*Id.* at p. 15.) The document does not establish that Mr. Mix spoke with applicant. In addition, Mr. Mix's declaration indicates that he was "advised by James J. Cunningham, [a] person I know to be the personal attorney of Applicant that

> Applicant did not wish to continue to pursue a claim for [workers'] compensation benefits." (*Id.* at p. 16.) The record contains no contemporaneous medical evaluations or reports. The evidence thus aligns with applicant's trial testimony that he was unaware of the initial filing, but upon learning of the pending case, sought to have the matter dismissed. (Transcript of Proceedings, dated September 17, 2025, at p. 19:22.) We further observe that defendant has interposed no witnesses that would rebut applicant's testimony in this respect.

(Decision, at pp. 11-12.)

Defendant's Petition identifies no countervailing evidence to support the contention that applicant received medical or legal advice in 2004 that he had sustained compensable disability and that such disability was related to his prior employment.

Defendant's Petition asserts, however, that applicant knew that a claim had been filed on his behalf in 2004, that applicant instructed that the claim be withdrawn, and that applicant testified he was aware of a right to bring a claim. (Transcript of Proceedings, dated September 17, 2025, at p. 20:12.) Defendant points out that applicant "knew he could proceed with the prior case and chose not to." (Petition, at p. 7:9.)

However, general knowledge that an employee in California may bring a claim for workers' compensation benefits is wholly insufficient to trigger a section 5412 date of injury for purposes of commencing the running of the statute of limitations of section 5405. As the California Court of Appeal has observed, "[k]nowledge that one can file a workers' compensation claim is different from knowledge that a disability was caused by a present or prior employment." (*Travelers Indem. Co. v. Workers' Comp. Appeals Bd.* (*Zeber*) (2025) 111 Cal.App.5th 568, 579 [90 Cal.Comp.Cases 373].) Here, defendant identifies no evidence that applicant was aware in 2004 of the nature of the claim brough on his behalf, including whether the claim asserted a specific or cumulative injury, the involved body parts, the dates or employers alleged, or the underlying mechanism of injury. Applicant's testimony was that he could "possibly" have proceeded with a workers' compensation claim that he had never consulted with an attorney about nor authorized in the first instance. (Transcript of Proceedings, dated September 17, 2025, at p. 20:12.) Applicant testified that he never met with or had conversations with the attorney that filed the workers' compensation claim in 2004 and that he never signed any documents related to the filing. (Minutes of Hearing and Summary of Evidence, dated May 7, 2025, at p. 7:7.) We thus decline to equate general knowledge of a right to bring a claim under California's workers' compensation system with the knowledge required under section 5412 that an identified compensable disability was

caused by an injured worker's present or prior employment. (Lab. Code, § 5412; *Johnson*, *supra*, 163 Cal.App.3d at p. 473.)

Following our factual review of the entire evidentiary record occasioned by defendant's Petition herein, we remain persuaded that defendant has not met its affirmative burden of establishing the concurrence of compensability disability and knowledge of industrial causation sufficient to commence the running of the statute of limitations in 2004. We deny reconsideration, accordingly. *(Bassett McGregor*, *supra*, 205 Cal.App.3d at p. 1110.)

We also find it necessary to discuss the tenor of defendant's pleadings. Pursuant to WCAB Rule 10421(b)(9) (Cal. Code Regs., tit. 8, § 10421(b)(9)), parties appearing before the WCAB are required to refrain from using any language in any pleading or other document where the language is directed to the Workers' Compensation Appeals Board, to any of its officials or staff or to any party (or the attorney or non-attorney representative for a party); and is "(A) patently insulting, offensive, insolent, intemperate, foul, vulgar, obscene, abusive or disrespectful; or (B) [w]here the language or gesture impugns the integrity of the Workers' Compensation Appeals Board or its commissioners, judges or staff."

The petition filed herein states that we have "ignored the law and misapplied the facts" (Petition, at p. 3:12), that our decision engages in advocacy (*Id.* at p. 3:16), that we ignore but also give "lip service" to the WCJ's credibility determination (*Id.* at p. 4:24), and that we deliberately misinterpret controlling case law "as a crutch that the Appeals Board may substitute its own determination as to the credibility and reject the findings of the WCJ." (*Id.* at p. 5:1.) In addition, defendant asserts we have "manufacture[d] a conflict in evidence" (*Id.* at p. 6:23) and "refus[ed] to review the entire record and acknowledge that there is no conflict in the testimony…." (*Id.* at p. 8:21.) Such language is unquestionably intemperate and clearly seeks to impugn the integrity of the Workers' Compensation Appeals Board, its commissioners, judges or staff. While defendant is free to engage in zealous advocacy, defendant's advocacy as reflected in the Petition for Reconsideration in this matter has devolved into vitriol.

All persons appearing before the WCAB are expected to comply with all statutes, decisional authority, and regulations of the WCAB, and the failure to do so could subject the offending person to sanctions. (Lab. Code, § 5813; Cal. Code Regs., tit. 8, § 10421.) ***We therefore ADMONISH defense counsel Timothy Peterson (CSB# 210197), and Bober, Peterson & Koby, LLP, and defendants Angels Baseball, LP, Ace American Insurance Company, and Gallagher***

Bassett Services, Inc., to ensure that future pleadings refrain from employing language that is intemperate or that impugns the integrity of the Workers' Compensation Appeals Board, its commissioners, judges or staff. (Cal. Code Regs., tit. 8, § 10421(b)(9).)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 10, 2026

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

RANDY READY, SR.
GLENN STUCKEY & PARTNERS
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*