WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

MATTHEW HATCHETTE, ***Applicant***

vs.

OAKLAND RAIDERS; TIG/FAIRMONT PREMIER INSURANCE COMPANY, administered by ZENITH INSURANCE COMPANY; JACKSONVILLE JAGUARS; ACE AMERICAN INSURANCE COMPANY, administered by QUAL-LYNX; NEW YORK JETS; USF&G, administered by GALLAGHER BASSETT SERVICES, INC.; OAKLAND RAIDERS; CHUBB, PACIFIC EMPLOYERS INSURANCE, administered by SEDGWICK CMS, ***Defendants***

Adjudication Number: ADJ11706407
Santa Ana District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Defendant seeks reconsideration of the January 13, 2025 Findings of Fact issued by the workers' compensation administrative law judge (WCJ). Therein, the WCJ found the following:

> 1. Matthew Hatchette, born [], while employed during the alleged period of April 20, 1997 through August 30, 2004, as a professional football player, Occupational Group Number 590, at various locations by the Jacksonville Jaguars, Amsterdam Admirals, the Oakland Raiders, New York Jets, and Minnesota Vikings claims to have sustained injury arising out of and in the course of employment.
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> 2. At the time of injury, the employers' compensation carriers were TIG/Fairmont Premier Insurance Company and Chubb, administered by Sedgwick for the Oakland Raiders; USF&G, care of Gallagher Bassett for the New York Jets; and Chubb, care of Qual-Lynx for the Jacksonville Jaguars.
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> 3. The Jacksonville Jaguars employed the applicant between June 18, 2003 and October 12, 2003.
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> 4. The applicant played for a California based team.

5. The applicant entered into one contract for hire while in the State of California.

6. The applicant entered into contracts for employment while in the State of California.

7. California has subject matter jurisdiction over the applicant's claim.

8. The Jacksonville Jaguars raised defenses and conducted discovery to defend against the claim beyond the issue of personal jurisdiction.

9. The Jacksonville Jaguars waived personal jurisdiction.

10. California and the Workers' Compensation Appeals Board have personal jurisdiction over the Jacksonville Jaguars.

11. There is no causal connection between the applicant's alleged injuries and the practice and pregame warmups in which the applicant participated while in California while and employed by the New York Jets.

12. California and the Workers' Compensation Appeals Board do not have personal jurisdiction over the New York Jets.

13. The August 18, 2008, Order dismissing the Jacksonville Jaguars was not a judgment on the merit of the issues of jurisdiction as they pertain to the Jacksonville Jaguars.

14. The August 18, 2008, Compromise and Release was not a judgment on the merits of the applicant's alleged industrial injuries as they pertain to the Jacksonville Jaguars.

15. The doctrine of res judicata does not bar the Court from asserting personal jurisdiction over the Jacksonville Jaguars.

16. The doctrine of res judicata does not bar the Court from asserting subject matter jurisdiction of the applicant's claim.

17. The doctrine of res judicata does not preclude the applicant's claim.

18. There is a sufficient relationship with the applicant's injuries to make the application of California workers' compensation law reasonable.

19. The applicant's claim against the Jacksonville Jaguars does not violate the Jacksonville Jaguars' right to due process.

Defendant contends that the Order Dismissing the Jacksonville Jaguars dated August 18, 2008 is a final order; that the WCJ should have dismissed the Jacksonville Jaguars from this claim

in consistence with the Order Dismissing the Jacksonville Jaguars dated August 18, 2008 by res judicata; and that proceeding against the Jacksonville Jaguars violates its right to due process.

We did not receive an answer. The WCJ issued a Report and Recommendation recommending that we deny reconsideration.

We have considered the Petition for Reconsideration 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 defendant'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 Labor Code section 5950 et seq.

I.

Preliminarily, we note that former Labor Code[1] 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."

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

Here, according to Events, the case was transmitted to the Appeals Board on February 14, 2025 and 60 days from the date of transmission is April 15, 2025. This decision is issued by or on April 15, 2025, 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. Labor Code 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 February 14, 2025, and the case was transmitted to the Appeals Board on February 14, 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 February 14, 2025.

II.

The WCA provided the following discussion in the Report:

RELEVANT BACKGROUND

> Matthew Hatchette, the applicant, filed a claim for injury for a continuous trauma between 1997 - 2004 to all body parts, for multiple orthopedic and neurological issues including but not limited to head, neck, back, hips, arms, and legs. This claim was assigned case number SOF0493911 and, subsequently, ADJ706170.
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> On August 18, 2008, an Order dismissing the Jacksonville Jaguars from case number SOF0493911 (ADJ706170) was issued. The Order read "GOOD CAUSE APPEARING, it is hereby ordered that the Jacksonville Jaguars and SCIBAL Associates be and hereby are dismissed with prejudice from this matter, unless written objection stating good cause to the contrary is filed and served no later than twenty (20) days from the date of service hereof, in which event this Order shall be rendered null and void." The words "with prejudice" were crossed out of the proposed Order by the Judge.
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> SOF0493911 was resolved on August 18, 2008, by way of Compromise and Release, which started to resolve injury to the applicant's left shoulder as a result

of a specific injury of August 2002 and a continuous trauma through August 2002. The Compromise and Release was only between the Oakland Raiders and the applicant.

The applicant filed a subsequent claim on November 21, 2018. The applicant's claim was for injury to his Hips, Digestive, Excretory, Hand, Arms, Legs, Knees, Ankles, Feet, Toes, Circulatory, Hips, Elbows, Wrists, Hands, Fingers, Internal, Chronic Pain, ENT/TMJ, Hearing, Neuro, Stress, Psyche, Vision, Sleep, Reproductive, neuropsych as a result of a continuous trauma between 5/21/2002 and 08/29/2004. Named as defendants are the Jacksonville Jaguars, Amsterdam Admirals of NFL Europe, Oakland Raiders, and New York Jets.

The matter proceeded to trial before the Undersigned Judge and was submitted for decision on November 6, 2024.

The issues submitted for determination were: Period of employment with the Jacksonville Jaguars; Subject matter jurisdiction; Personal jurisdiction over the New York Jets and Jacksonville Jaguars; Waiver of jurisdiction by the Jacksonville Jaguars; Res judicata as to personal jurisdiction over the Jacksonville Jaguars; and Due process pursuant to the 14th Amendment in forum non conveniens.

On January 13, 2025 the Undersigned Judge issued his FINDINGS OF FACT in which, in relevant part, he found that: The Jacksonville Jaguars waived personal jurisdiction; California and the Workers' Compensation Appeals Board has personal jurisdiction over the Jacksonville Jaguars; The August 18, 2008, Order dismissing the Jacksonville Jaguars was not a judgment on the merits of the issues of jurisdiction as they pertain to the Jacksonville Jaguars; The August 18, 2008, Compromise and Release was not a judgment on the merits of the applicant's alleged industrial injuries as they pertain to the Jacksonville Jaguars; The doctrine of res judicata does not bar the Court from asserting personnel jurisdiction over the Jacksonville Jaguars; There is a sufficient relationship with the applicant's injuries to make the application of California workers' compensation law reasonable; and The applicant's claim against the Jacksonville Jaguars does not violate the Jacksonville Jaguars' right to due process.

The Jacksonville Jaguars filed a Petition for Reconsideration asserting that the Undersigned Judge errored in finding that: The August 18, 2008, Order dismissing the Jacksonville Jaguars was not a judgment on the merit of the issues of jurisdiction as they pertain to the Jacksonville Jaguars; that the doctrine of res judicata does not bar the Court from asserting personal jurisdiction over the Jacksonville Jaguars; and that the applicant's claim against the Jacksonville Jaguars does not violate the Jacksonville Jaguars' right to due process.

(Report at pp. 2-3, footnotes omitted.)

III.

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

As explained by the Supreme Court:

> The claim preclusion doctrine, formerly called res judicata, "prohibits a second suit between the same parties on the same cause of action." (Citation.) "Claim preclusion arises if a second suit involves (1) the same cause of action (2) between the same parties (3) after a final judgment on the merits in the first suit." (Citation.)

(*Kim v. Reins International California, Inc*. (2020) 9 Cal.5th 73, 91.)

Issue preclusion, also known as collateral estoppel, applies to bar a party from relitigating an issue already decided if the following requirements are met: (1) "the issue sought to be precluded from re-litigation must be identical to that decided in a former proceeding"; (2) "this issue must have been actually litigated in the former proceeding"; (3) "it must have been necessarily decided in the former proceeding"; (4) "the decision in the former proceeding must be final and on the merits"; and (5) "the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding." (*Branson v. Sun-Diamond Growers of California*, 24 Cal.App.4th 327, (1994) (quoting *Lucido v. Superior Court*, 51 Cal.3d 335, 341, (1990), cert. denied, 500 U.S. 920 (1991).)

Here, it is unclear from our preliminary review that the record is clear as to whether claim preclusion or issue preclusion applies. Taking into account the statutory time constraints for acting on the petition, and based upon our initial review of the record, we believe reconsideration must be granted to allow sufficient opportunity to further study the factual and legal issues in this case. We believe that this action is necessary to give us a complete understanding of the record and to enable us to issue a just and reasoned decision. Reconsideration is therefore granted for this purpose and for such further proceedings as we may hereafter determine to be appropriate.

IV.

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 Labor Code sections 5950 et seq.

V.

Accordingly, we grant defendant'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 defendant's Petition for Reconsideration 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/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 15, 2025

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

MATTHEW HATCHETTE
GLENN, STUCKEY & PARTNERS LLP
CHERNOW, PINE & WILLIAMS
GOLDBERG SEGALLA
COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP
MANNING KASS

PAG/bp

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