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5 CINCINNATI BENGALS, INC.

6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA

8 THE CINCINNATI BENGALS, INC,
9 an Ohio Corporation

10 Plaintiff,

11 v.

12 CHRIS MANDERINO, an Individual

13 Defendant.

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF –
VIOLATION OF DUE PROCESS
[U.S. Const., Amend. XIV, § 1]**

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1 For its Complaint against Defendant Chris Manderino (“Manderino” or
2 “Defendant”), Plaintiff, The Cincinnati Bengals, Inc. (“the Bengals”), states as
3 follows:

4 **INTRODUCTION**

5 1. The Due Process Clause of the Fourteenth Amendment to the United
6 States Constitution restricts a state’s exercise of personal jurisdiction over out-of-state
7 parties. The United States Supreme Court described those limitations in *International*
8 *Shoe Co. v. Washington*, 326 U.S. 310, 316 (1946): a forum state may exercise
9 jurisdiction over an out-of-state defendant, only if certain minimum contacts exist
10 between that party and the state such that “the maintenance of an action in the state
11 does not offend traditional notions of fair play and substantial justice.” See also:
12 *Walden v. Fiore*, 134 S. Ct. 1115, 1121 (2014).

13 2. The “minimum contacts” standard enunciated by *International Shoe Co.*
14 was refined in *Bristol-Myers Squibb Co. v. Superior Court of the State of California*,
15 137 S. Ct. 1773, 1779 (2017). Therein, the Supreme Court held that “[T]he primary
16 focus of a personal jurisdiction inquiry is the defendant’s relations to the forum state.”
17 The Supreme Court explained the due process mandate that personal jurisdiction may
18 be exercised only if the claim at issue arises out of, or relates to, the out-of-state
19 defendant’s conduct within the forum state. The Court held “there must be an
20 affiliation between the forum and the underlying controversy, principally, [an]
21 activity or an occurrence that takes place in the forum State and is therefore subject
22 to the State’s regulation.” (Citations omitted.) *Id.* at 1780.

23 3. The Supreme Court has also made clear that an out-of-state defendant’s
24 execution of a contract within the forum state does not, by itself, support the exercise
25 of personal jurisdiction over that party. See *Bristol-Myers Squibb*, 137 S. Ct. at 1783:
26 “The bare fact that BMS contracted with a California distributor is not enough to
27 establish personal jurisdiction in the state.” See also *Burger King Corp. v. Rudzewicz*,
28 471 U.S. 462, 478 (1985): “[I]f the question is whether an individual’s contract with

1 an out-of-state party alone can automatically establish sufficient minimum contacts
2 in the other party’s home forum, we believe the answer clearly is that it cannot. The
3 Court long ago rejected the notion that personal jurisdiction might turn on
4 ‘mechanical’ tests . . . or on ‘conceptualistic theories of the place of contracting or of
5 performance (emphasis in original).”

6 4. The Bengals bring this action to dispute and contest Defendant
7 Manderino’s efforts to invoke California’s exercise of personal jurisdiction over them
8 in a claim which Manderino has filed against them at the California Workers’
9 Compensation Appeals Board (“WCAB”). The Bengals contend that the exercise of
10 the jurisdiction Defendant seeks to invoke violates the due process of law guaranteed
11 by the Fourteenth Amendment to the United States Constitution.

12 **THE PARTIES**

13 5. The Bengals are a corporation organized under the laws of the State of
14 Ohio who are domiciled in Cincinnati, Ohio, which serves as their principal place of
15 business and is the location where they operate and run a professional football team
16 that plays as a member of the National Football League.

17 6. Defendant Manderino is a resident of Beaumont, California. Manderino
18 has filed a claim for workers’ compensation injury against the Bengals at the
19 California WCAB and seeks to have that agency exercise personal jurisdiction over
20 the Bengals under *California Labor Code Sections* 3600.5(a) and 5305. A true,
21 complete, and accurate copy of Manderino’s claim is attached hereto as Exhibit “A,”
22 and is incorporated herein by this reference thereto.

23 **JURISDICTION AND VENUE**

24 7. The Bengals allege that Manderino’s invocation of WCAB jurisdiction
25 under *California Labor Code Sections* 3600.5(a) and 5305 violates its right to Due
26 Process of Law under the Fourteenth Amendment to the United States Constitution.
27 Those code sections purport to empower the WCAB to exercise personal jurisdiction
28 over out-of-state defendants in a manner that violates the Due Process Clause.

1 (b) The Bengals are domiciled in Cincinnati, Ohio, where they maintain
2 their principal place of business.

3 (c) The Bengals do not maintain and have never maintained a business
4 facility or telephone number in California.

5 (d) The Bengals do not maintain any bank accounts in California.

6 (e) The Bengals do not have, or hold, any licenses or permits issued by
7 any California state governmental entity.

8 (f) The Bengals do not have any owners, members, officers, or directors
9 who reside in California.

10 (g) The Bengals do not advertise or solicit business in California.

11 (h) The Bengals do not conduct job fairs, advertise for employees, or
12 conduct employment interviews in California.

13 13. The Bengals employed Manderino as a professional athlete between May
14 4, 2006 and September 2, 2006; then again from November 28, 2006 to September 2,
15 2007 and finally from September 3, 2007 through January 7, 2008. During his
16 roughly two seasons in the Bengals organization, Manderino:

17 (a) did not play a single football game for the Bengals in California;

18 (b) did not participate in a single practice with the Bengals in California;

19 and

20 (c) exclusively performed his work-related duties for the Bengals outside
21 of California.

22 14. *California Labor Code Section 3600.5(a)* provides, in relevant part, “[i]f
23 an employee who has been hired . . . in the state receives personal injury by accident
24 arising out of and in the course of employment outside of this state, he or she . . . shall
25 be entitled to compensation according to the law of this state.” Because it does not
26 require that an employee’s injury occur in California or that the injury arise out of, or
27 relate to, the out-of-state defendant’s conduct in California, Defendant’s invocation
28 of *Section 3600.5(a)* as a basis for jurisdiction over the Bengals utterly ignores the

1 Due Process mandate that personal jurisdiction be exercised over an out-of-state
2 defendant only if the underlying controversy arises out of or relates to that defendant's
3 conduct in the forum state. *Bristol-Myers Squibb Co.*, supra.

4 15. *California Labor Code Section 5305* similarly provides that the WCAB
5 has jurisdiction over all injuries which occur outside of California, simply because an
6 employment contract was executed in California. As with *Section 3600.5(a)*, this
7 section does not require that an employee's injury occur in California, or that an out-
8 of-state employer have any contact with California (aside from executing a contract
9 for hire in California), before the WCAB may exercise jurisdiction over an out-of-
10 state employer.

11 16. As used by Defendant to invoke jurisdiction in the WCAB action,
12 *California Labor Code Sections 3600.5(a)* and *5305* deprive out-of-state employers
13 of Due Process. Both sections purport to empower the WCAB to exercise personal
14 jurisdiction over an out-of-state employer, even if the employer's sole connection to
15 California is the execution of an employment contract in California. Thus, those two
16 code sections purport to endow the WCAB with jurisdiction even if the claim is
17 thoroughly unrelated to any activity conducted by the out-of-state defendant in
18 California. Such exercise of jurisdiction by Defendant is incompatible with the
19 traditional notions of fair play and substantial justice required by the Due Process
20 Clause of the Fourteenth Amendment to the United States Constitution.

21 17. Manderino's claim vividly demonstrates the constitutional flaws of
22 Manderino's efforts to confer jurisdiction upon the WCAB by *California Labor Code*
23 *Sections 3600.5(a)* and *5305*. Manderino exclusively performed all his work-related
24 duties for the Bengals outside of California and any work-related injuries he sustained
25 during employment with the Bengals similarly occurred outside of California. Thus,
26 Manderino's claim for benefits did not arise out of, or relate to, any conduct by the
27 Bengals in California. Moreover, as a material inducement for the Bengals to employ
28 Manderino, he promised and agreed that the law and forums of the State of Ohio

1 would have exclusive jurisdiction over any workers’ compensation claim, dispute, or
2 cause of action arising out of his employment. Nevertheless, under *Sections* 3600.5(a)
3 and 5305, the Bengals are denied the right to defend Manderino’s claim in the State
4 of Ohio, their principal place of business, which the United States Supreme Court has
5 described as the “paradigm forum.” *Daimler AG v. Bauman*, 571 U.S. 117, 137
6 (2013).

7 **FIRST CAUSE OF ACTION**
8 **FOR DECLARATORY AND INJUNCTIVE RELIEF**
9 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH**
10 **AMENDMENT**
11 **(28 U.S.C. §§ 2201 & 2202)**

12 18. The Bengals repeat and re-allege the allegations previously set forth in
13 Paragraphs 1 through 17, inclusive of this complaint and incorporate the same herein
14 by this reference thereto, as though fully hereinafter set forth at length.

15 19. As described in the preceding allegations, an actual controversy that falls
16 within the jurisdiction of this Court exists and a declaration of the rights and other
17 legal relations of the parties thereto would be a proper exercise of the Court’s
18 jurisdiction.

19 20. Under the Due Process Clause of the Fourteenth Amendment, no state
20 shall “deprive any person of life, liberty, or property, without due process of law.”

21 21. Administrative agencies are subject to the constraints of due process.
22 See *Federal Insurance Co. v. Workers’ Compensation Appeals Board (Johnson)*, 221
23 Cal. App. 4th 1116 (2013); *Withrow v. Larkin*, 421 U.S. 35 (1975); *Beverly Hills*
24 *Multispecialty Group, Inc. v. Workers’ Compensation Appeals Board, et al.*, 26 Cal.
25 App. 4th 789 (1994).

26 22. Plaintiff seeks (1) a declaration that Manderino’s invocation of
27 *California Labor Code* §§ 3600.5(a) and 5305 to confer jurisdiction on the WCAB
28 violates the Due Process Clause of the Fourteenth Amendment to the United States

1 Constitution; and (2) an order of this Court enjoining Manderino from prosecuting the
2 claim he has filed against the Bengals with the WCAB.

3 23. The Bengals will sustain irreparable harm – i.e., a violation of its rights
4 under the U.S. Constitution, if injunctive relief is not granted.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, the Bengals pray for the following relief:

7 1. A declaratory judgment that Manderino’s invocation of *California Labor*
8 *Code Section* 3600.5(a), which provides that “an employee who has been hired” in
9 California, without regularly working in California, is “entitled to workers’
10 compensation upon personal injury by accident arising out of and in the course of
11 employment outside of this state,” as basis for his WCAB claim is invalid and
12 unconstitutional as applied to the claim which Manderino has filed against the
13 Bengals with the WCAB;

14 2. A declaratory judgment that Manderino’s invocation of *California Labor*
15 *Code Section* 5305, which provides that the WCAB has jurisdiction over all “injuries
16 suffered outside the territorial limits of this state in those cases where the injured
17 employee is a resident of this state at the time of injury and the contract for hire was
18 made in this state,” as basis for his WCAB claim is invalid and unconstitutional as
19 applied to the claim which Manderino has filed against the Bengals with the WCAB;

20 3. That Manderino be permanently restrained and enjoined from
21 prosecuting the claim he has filed against the Bengals with the WCAB, under
22 *California Labor Code Section* 3600.5(a), which provides that “an employee who has
23 been hired” in this state, without regularly working in the state, is “entitled to workers’
24 compensation upon personal injury by accident arising out of and in the course of
25 employment outside of this state;”

26 4. That Manderino be permanently restrained and enjoined from pursuing
27 the claim he has filed against the Bengals with the WCAB, under *California Labor*
28 *Code Section* 5305, which provides that the WCAB may exercise jurisdiction over all

1 “injuries suffered outside the territorial limits of this state in those cases where the
2 injured employee is a resident of this state at the time of injury and the contract for
3 hire was made in this state.”

4 5. For costs and attorney fees; and

5 6. For such other and further relief as this Court deems just and proper.

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7 Dated: March 18, 2022

BOBER, PETERSON & KOBY, LLP

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By

/s/ Timothy A. Peterson

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TIMOTHY A. PETERSON

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Attorney for Plaintiff

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Cincinnati Bengals, Inc.

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