ALASKA WORKERS' COMPENSATION BOARD

P.O. Box 115512 **Juneau, Alaska 99811-5512**

MACAELA PRICE, Employee, Claimant, v. FRESENIUS MEDICAL CARE, Employer, and AMERICAN CASUALTY COMPANY, Insurer, Defendants.	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 202408928 AWCB Decision No. 26-0075 Filed with AWCB Anchorage, Alaska on September 18, 2026

Macaela Price's (Employee) February 13, 2026 petition for selection of a replacement second independent medical evaluation (SIME) physician was heard in Anchorage, Alaska on August 19, 2026, a date selected on July 14, 2026. A June 3, 2026 hearing request gave rise to this hearing. Attorney Carson Honeycutt appeared and represented Employee. Attorney Vicki Paddock appeared and represented Fresenius Medical Care and American Casualty Company (Employer). There were no witnesses. The record closed at the hearing's conclusion on August 19, 2026.

ISSUE

Employee presents detailed arguments in support of her petition. She is requesting a new orthopedic SIME by a different physician because, according to her, the SIME that was already performed did not meaningfully evaluate the medical record to answer whether her work injury accelerated her need for surgery and disability not withstanding her preexisting right knee

pathology. The "central factual problem," Employee contends, is a June 27, 2024 urgent care chart note concerning her history of present illness that stated her right knee recurrently dislocates and self-reduces and Employer's medical evaluator (EME) used this chart note to conclude her chronic patellar instability and the work injury produced a temporary aggravation that ended three months later. She also contends, the SIME physician used this same urgent care history three times in his report to support his conclusions, including his opinion that it represented preexisting recurring patella dislocations and instability. However, Employee contends the urgent care physician later "authenticated" a "replacement history" to be used instead of the original history that denied recurrent dislocations, and stated Employee's knee problems were an acute issue and that Employee had denied prior issues with her right knee. She contends the SIME physician gave a "short, unreasoned answer" at his deposition on whether he work injury accelerated her preexisting condition to produce her need for surgery and his report does not perform the function required by the Board; therefore, another SIME should be performed on the "corrected" medical record. Employee further contends there is a gap in medical evidence since there is no independent medical opinion on the acceleration of her need for surgery and she also objects to the SIME report being submitted eight days late.

Employer contends Employee is presenting a "really hyper-focused argument" on a single chart note and that the SIME physician did not base his opinions on that chart note alone but rather cited numerous other medical records in support of his opinions. It contends Employee's petition should be denied.

Should an additional orthopedic SIME with another physician be ordered?

FINDINGS OF FACT

A preponderance of the evidence establishes the following facts and factual conclusions:

1) On June 27, 2024, Employee strained her right knee while placing biohazard containers in storage. (First report of Injury, July 10, 2024).

2) On June 27, 2024, Employee sought treatment at the Central Peninsula Urgent Care where she was evaluated by Robert Emmick Jr., MD. Dr. Emmick recorded the following history of Employee's present illness:

> Patient presents acting as her own historian. She has a history of a left prosthetic knee and reports that her right knee has arthritis and recurrently dislocates and self-reduces. The patient's right patella dislocated yesterday and self-reduced when she straightened her leg. Since then[,] the patella has been unstable but dislocated again. She has a soreness radiating up the lateral left thigh that worsens with movement. She has a sharp intermittent pain that radiates downward along the lateral fibula with movement and palpation of the fibula head region. She denies any other complaints. . . .

(Emmick chart notes, June 27, 2024).

3) On October 18, 2024, Employee's surgeon, Bryan Haughom, MD, recommended right knee patellofemoral replacement surgery and opined her patellofemoral instability and her need for surgery was related to her work injury. (Haughom chart notes, October 18, 2024).

4) On November 9, 2024, Scot Youngblood, MD, performed an EME and diagnosed right knee patellofemoral dislocation, which he thought was substantially caused by the June 6, 2024 work injury. He opined the work injury temporarily aggravated Employee's preexisting right knee patellofemoral instability and severe arthritis and the aggravation resolved three months after the injury. (Youngblood report, November 9, 2024).

5) On December 3, 2024 and February 7, 2025, Employer controverted benefits based on Dr. Youngblood's November 9, 2024 EME report. (Controversion Notices, December 3, 2024; February 7, 2025).

6) On April 21, 2025, Dr. Emmick revised his June 27, 2024 chart note by adding another history of Employee's present illness:

> The following history should be used instead of the history initially listed below: Patient presents acting as her own historian. She has a history of a left prosthetic knee. The patient's right patella dislocated yesterday and self-reduced when she straightened her leg. Since then[,] the patella has been unstable, but has 'HAS NOT' dislocated again. She has a soreness radiating up the lateral left thigh that worsens with movement. She has a sharp intermittent pain that radiates downward along the lateral fibula with movement and palpation of the fibula head region. The right knee problem is an acute issue[,] and the patient denies prior issues with her right knee. She denies any other complaints. . . .

(Emmick chart notes, June 27, 2024) (revised April 21, 2025) (caps in original).

7) On May 7, 2025, Employee petitioned for an SIME, citing numerous disputes between her treating physician, Dr. Haughom, and Employer's medical evaluator, Dr. Youngblood. (Employee Petition, May 7, 2025; Employee SIME Form, May 7, 2025).

8) On May 27, 2025, Employer agreed to an SIME on disputed medical issues. (Employer Answer, May 27, 2025).

9) On August 7, 2025, James Scoggin III, MD, an orthopedic surgeon, was appointed to perform a January 19, 2026 SIME. (Byers email, August 7, 2025).

10) On October 16, 2025, Employee underwent right knee patellofemoral arthroplasty surgery performed by Dr. Haughom. (Operative Report, October 16, 2025).

11) On February 13, 2026, Employee petitioned for the selection of a replacement SIME physician because Dr. Scoggin had not submitted his report timely. (Employee Petition, February 13, 2026).

12) On February 17, 2026, the Workers' Compensation Division (Division) received Dr. Scoggin's SIME report. (Agency record, February 17, 2026). A Division staff member emailed the report to the parties the following day. (Agency record, February 18, 2026).

13) In his February 17, 2026 SIME report, Dr. Scoggin agreed with Dr. Youngblood that the work injury represented a temporary aggravation of Employee's pre-existing patellofemoral instability and that the aggravation resolved approximately three months after the injury. He also answered the following question:

> *2. If, in your opinion, one cause of [Employee's] disability, or need for medical treatment is a pre- existing condition, did the 06/26/2024 employment injury aggravate, accelerate, or combine with the pre-existing condition to cause disability or need for treatment?*
>
> The pre-existing condition was temporarily aggravated by the dislocation episode that occurred on 6/26/24. According to the medical record of 6/27/24, she had a history of recurrent dislocations that was pre-existing. On 7/3/24, she was again noted to have a history of patella dislocations in the past. The MRI on 7/7/24 showed a healed avulsion fracture at the patella insertion of the MPFL (medial patellofemoral ligament). This indicates that the ligament that normally holds the patella in place had actually been torn well before the 6/26/24 injury, and had already had time to heal. This confirms that in fact there were previous patella dislocations. The impression of the MRI was that there were sequelae of chronic patella instability, confirming that the patella instability represents a chronic preexisting condition.

> The incident on 6/26/24 was a temporary aggravation of a preexisting condition. I agree with the prior independent medical examiner that the right knee patella dislocation represented a temporary aggravation of Ms. Price's pre-existing condition that had resolved to its baseline by approximately three months postinjury period. By that date, she had most likely returned to her baseline, and was noted to be feeling as if it may be time to intervene surgically. It should be noted that she was interested in patellofemoral replacement and discussed this with Dr. Haughom on 5/26/23, more than a year before the industrial injury. The patellofemoral arthroplasty was performed for conditions that she already had, prior to the industrial injury of 6/26/24.

(Scoggin report, February 17, 2026).

14) On March 3, 2026, Employee petitioned to strike Dr. Scoggin's February 17, 2026 SIME report from the record because of "material omissions" that rendered it "unhelpful and unreliable" since it was silent on the issue of whether Employee's injury accelerated her need for surgery. (Employee Petition, March 3, 2026).

15) On May 27, 2026, Dr. Scoggin testified at deposition. (Scoggin dep., May 27, 2026). Employee's attorney's questioning of Dr. Scoggin about Dr. Emmick's April 21, 2025 revision to his June 27, 2024 chart notes spans 19 pages of the deposition's 69-page transcript, and included the following:

> Q My initial question for you goes back to the June 27, 2024 urgent care note of Dr. Robert Emmick.
>
> A Correct.
>
> Q But prior to my question related to that is how do you determine that the reference for "recurrently dislocates" was based on the document prior right knee events in [Employee]?
>
> A I'm sorry, repeat the question.
>
> Q Yeah, so from the urgent care note, Dr. Emmick you determined that the reference to "recurrently dislocates" was based on documented prior right knee events. How did you come to that conclusion?
>
> A I think what we discussed -- what I discussed already was that the conclusion was based on the totality of evidence that she had in a prior statement by her treating physician that her condition of her right knee was very similar to the condition of her left knee that required surgery five years before, that she had repeated examinations where she had patellofemoral pain, grinding, gallop, popping, skip were some of the words that were used all consistent with patellofemoral instability.

She had findings on her prior x-rays, trochlear dysplasia. And then when she was what I believe you're getting to is when she was initially evaluated and this is in -- I apologize. I believe I missed the correction on the medical records. I think we thought it was a duplicate at first.

Q Okay.

A Thank you for pointing that out. So when she initially was seen, the date which is one day after June 26, 2024 so on June 27, 2024, she stated that her right knee has arthritis and recurrently dislocates and self-reduces. So the doctor who saw her in the -- Dr. Emmick who saw her in the emergency room, he said the patient reports that her right knee has arthritis and recurrently dislocates and self-reduces. And I felt that went along with the prior history.

And then he said the patient's right patella dislocated yesterday and self-reduced when he straightened her leg. Since then the patella has been unstable but dislocated again and she's sort of, et cetera.

So that note was written on the day of the injury. And then I note in this addendum or this follow-up note the correction provided by the patient[,] which was ten months later, she presented the – her recollection of what had actually happened and the patient stated – it's my understanding the patient stated that she had a history of the left prosthetic knee, the patient's right patella dislocated yesterday and self-reduced when she straighted [sic] her leg. Since then, the patella has been unstable but has not dislocated again. So that was one correction, that had not dislocated again. And she talks about her soreness.

And then the other correction was that -- was provided apparently by [Employee]. The right knee problem is an acute issue and the patient denies prior issues with her right knee. So that was [Employee's] correction. Am I correct in paraphrasing that?

Q That's correct.

A So those were her corrections. And I would comment -- I have a comment on that if you –

Q Please comment.

A My comment is that the initial report was made by the physician at the time of or very shortly after. We know it was on the same day because it's dated and timed.

So Dr. Emmick recorded what he was told by the patient on the day of within two hours of when she arrived at the emergency room. She then corrected him based upon her recollections ten months later. So[,] I think there is a value to still giving

> some weight to the physician's record remembering that the medical record is after all the official record of what we do.
>
> I'd like to point out that doctors forget things, patients forget things, lawyers forget things. And that's why we write everything down because then nobody has to remember anything. It's all written down. And that's the purpose of the medical record. And I also would like to point out that what she's remembering ten months later, she denied prior issues with her right knee and we know that's not correct.
>
> We just went through years of prior visits with prior complaints. She's got pain in her knee, she has to modify her activities, et cetera, et cetera, surgery is being considered, she's had cortisone shots, four times she's had cortisone shots and possibly more than that prior to this injury. And all that to me is not consistent with her recollection that she had denied prior issues with her right knee.
>
> And I didn't see another addendum where she called and said that's not what she actually said. I think she, the other independent medical evaluator, noted that she was a challenged historian and I would say that she's an inconsistent historian. She doesn't appear to accurately recall her own prior history. And a lot of people don't.
>
> I mean, she's got a complicated medical history. Sometimes people with such complicated medical histories, they don't recall things accurately. I'm not impugning them in any way.
>
> A lot of people have complicated medical histories. They don't recall what happened when, et cetera. That's why we write everything down.

(*Id*. at 32-36; Observations). Dr. Scoggin also testified regarding whether the work injury accelerated Employee's need for surgery:

> Q As it relates to your report, did your report address whether [Employee's] work injury from June 26, 2024 accelerated the knee, for right knee arthroplasty?
>
> A I can answer that. I think the answer is no, I don't know if I truly answered that previously.
>
> Q Okay. So to clarify, your position is that the work injury did not accelerate her need for right knee surgery?
>
> A Correct.

(*Id*. at 43).

16) On June 3, 2026, Employee filed an Affidavit of Readiness for Hearing (ARH) on her January 21, 2025 claim, her February 13, 2026 petition for selection of a replacement SIME

physician, and her March 3, 2026 petition to strike Dr. Scoggin's SIME report. (Employee ARH, June 3, 2026).

17) At a July 14, 2026 prehearing conference, Employee requested a hearing on her February 13, 2026 petition for the selection of a replacement SIME physician, which was scheduled for hearing on August 19, 2026, and elected to have her January 21, 2025 claim and her March 3, 2026 petition to strike Dr. Scoggin's SIME report heard at a later date. (Prehearing Conference Summary, July 14, 2026).

PRINCIPLES OF LAW

The Board may base its decision not only on direct testimony, medical findings, and other tangible evidence, but also on the Board's "experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above." *Fairbanks North Star Borough v. Rogers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

> **AS 23.30.001. Legislative intent.** It is the intent of the legislature that
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> (1) this chapter be interpreted so as to ensure . . . quick, efficient, fair, and predictable delivery of . . . benefits to injured workers at a reasonable cost to . . . employers; . . .

> **AS 23.30.110. Procedure on claims.** . . . (g) An injured employee claiming or entitled to compensation shall submit to the physical examination by a duly qualified physician which the board may require. . . .

Considering the broad procedural discretion granted in AS 23.30.135(a) and AS 23.30.155(h), wide discretion exists under AS 23.30.095(k) and AS 23.30.110(g) to consider any evidence available when deciding to order an SIME to "properly protect the rights of all parties." *Bah v. Trident Seafoods Corp.*, AWCAC Dec. No. 073 (February 27, 2008).

> **AS 23.30.135. Procedure before the board.** (a) In making an investigation or inquiry or conducting a hearing the board is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter. The board may make its investigation or inquiry or conduct its hearing in the manner by which it may best ascertain the rights of the parties. . . .

> **AS 23.30.155. Payment of compensation**. . . .

> (h) The board may upon its own initiative at any time in a case in which payments are being made with or without an award, where right to compensation is controverted, or where payments of compensation have been increased, reduced, terminated, changed, or suspended, upon receipt of notice from a person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been increased, reduced, terminated, changed, or suspended, make the investigations, cause the medical examinations to be made, or hold the hearings, and take the further action which it considers will properly protect the rights of all parties.

An SIME's purpose is to have an independent medical expert provide an opinion about a contested issue. *Seybert v. Cominco Alaska Exploration*, 182 P.3d 1079, 1097 (Alaska 2008). The decision to order an SIME rests in the discretion of the Board, even if jointly requested by the parties. *Olafson v. State Department of Transportation*, AWCAC Dec. No. 06-0301 (October 25, 2007). Although a party has a right to request an SIME, a party does not have a right to an SIME if the Board decides one is not necessary for the Board's purposes. *Id*. at 8. An SIME is not a discovery tool exercised by the parties; it is an investigative tool exercised by the Board to assist it by providing a disinterested opinion. *Id*. at 15.

> **8 AAC 45.095. Second independent medical evaluation.**
> . . . .
>
> (i) . . . . An examiner's report must be received by the board not later than 21 days after the evaluation ended. If an examiner's report is not timely received by the board, a party may file a petition asking that another physician be selected to serve as a second independent medical examiner. The board or its designee may[] select another physician to serve as a second independent medical examiner . . . .

ANALYSIS

Many of Employee's objections to Dr. Scoggin's SIME report concern Dr. Emmick's and Employee's "replacement history" that was added to Dr. Emmick's June 27, 2024 chart notes 10 months after the original doctor-patient encounter. Dr. Scoggin acknowledged he had initially missed this "replacement history" of Employee's present illness in Dr. Emmick's revised June 27, 2024 chart note because he thought it was a duplicate record. Employee's attorney thoroughly questioned him on it at his deposition, and his lengthy testimony makes clear that he simply places more reliance on Dr. Emmick's contemporaneous note taking on the date of injury than he does on Employee's curious revision to her medical history 10 months later. *Rogers & Babler*.

Moreover, as Employer contends, Dr. Scoggin did not just rely on Dr. Emmick's original June 27, 2024 history to establish previous patellar dislocations. Rather, Dr. Scoggin's answer to the "aggravate, accelerate or combine with" question in the SIME report shows that he also relied on July 3, 2024 chart notes, where Employee was also noted to have had past patella dislocations; a July 7, 2024 magnetic resonance imaging (MRI) study that showed the ligament that holds the patella in place had torn and already healed, confirming previous patella dislocations, according to Dr. Scoggin; and May 26, 2023 chart notes were Dr. Haughon discussed patellofemoral replacement surgery with Employee more than a year before the work injury.

Employee also contends that Dr. Scoggin inadequately addressed the question of whether the work injury accelerated her need for surgery. We disagree. His testimony at deposition was:

> Q As it relates to your report, did your report address whether [Employee's] work injury from June 26, 2024 accelerated the knee, for right knee arthroplasty?
>
> A I can answer that. I think the answer is no, I don't know if I truly answered that previously.
>
> Q Okay. So to clarify, your position is that the work injury did not accelerate her need for right knee surgery?
>
> A Correct.

Although Employee characterizes Dr. Scoggin's above answers as "short" and "unreasoned," they may just as easily be characterized as succinct and definitive considering his other testimony:

> [W]hat I discussed already was that the conclusion was based on the totality of evidence that she had in a prior statement by her treating physician that her condition of her right knee was very similar to the condition of her left knee that required surgery five years before, that she had repeated examinations where she had patellofemoral pain, grinding, gallop, popping, skip were some of the words that were used all consistent with patellofemoral instability. She had findings on her prior x-rays, trochlear dysplasia. . . .
>
> We just went through years of prior visits with prior complaints. She's got pain in her knee, she has to modify her activities, et cetera, et cetera, surgery is being considered, she's had cortisone shots, four times she's had cortisone shots and

> possibly more than that prior to this injury. And all that to me is not consistent with her recollection that she had denied prior issues with her right knee.

As explained in this testimony, Dr. Scoggin did not think the work injury accelerated Employee's need for surgery because her need for surgery preexisted the work injury. In fact, Dr. Scoggin punctuated his answer to the "aggravate, accelerate, or combine with" question in his SIME report by decisively stating, "The patellofemoral arthroplasty was performed for conditions that [Employee] already had, prior to the industrial injury of 6/27/24."

In response to Employee's other contentions in support of ordering another SIME, there is no gap in medical evidence, as she contends, since Dr. Scoggin addressed the issue of whether the work injury accelerated her need for surgery in both his SIME report and his deposition testimony, as shown above. Additionally, since Employee did not point to any prejudice she may have suffered from the SIME report being received eight days late, its tardy submission is not a reason for ordering another SIME either. AS 23.30.135(a); AS 23.30155(h). Given that Dr. Scoggin's deposition testimony and SIME report are sufficiently clear and detailed, this panel concludes that it already has an independent, well-reasoned opinion on which it can rely or choose to give less weight. *Seybert*; *Rogers & Babler*. Furthermore, ordering another SIME would impose unfounded and unreasonable costs on Employer, so Employee's petition will be denied. *Olafson*; AS 23.30.001(1).

CONCLUSIONS OF LAW

An additional SIME with another orthopedic physician should not be ordered.

ORDER

Employee's February 13, 2026 petition for selection of a replacement orthopedic SIME physician is denied.

Dated in Anchorage, Alaska on September 18, 2026.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Robert Vollmer, Designated Chair

/s/
Brian Zematis, Member

PETITION FOR REVIEW

A party may seek review of an interlocutory or other non-final Board decision and order by filing a petition for review with the Alaska Workers' Compensation Appeals Commission. Unless a petition for reconsideration of a Board decision or order is timely filed with the board under AS 44.62.540, a petition for review must be filed with the commission within 15 days after service of the board's decision and order. If a petition for reconsideration is timely filed with the board, a petition for review must be filed within 15 days after the board serves the reconsideration decision, or within 15 days from date the petition for reconsideration is considered denied absent Board action, whichever is earlier.

RECONSIDERATION

A party may ask the board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accordance with 8 AAC 45.050. The petition requesting reconsideration must be filed with the board within 15 days after delivery or mailing of this decision. The power to order reconsideration expires 30 days after the date the decision was mailed. If no action is taken on a petition for reconsideration within the time allowed to order reconsideration, the petition is considered denied.

MODIFICATION

Within one year after the rejection of a claim, or within one year after the last payment of benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, a party may ask the board to modify this decision under AS 23.30.130 by filing a petition in accordance with 8 AAC 45.150 and 8 AAC 45.050.

CERTIFICATION

I hereby certify the foregoing is a full, true and correct copy of the Interlocutory Decision and Order in the matter of MACAELA PRICE, employee / claimant v. FRESENIUS MEDICAL CARE, employer; AMERICAN CASUALTY COMPANY, insurer / defendants; Case No. 202408928; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by certified U.S. Mail, postage prepaid, on September 18, 2026.

/s/
Lorvin Uddipa, Workers' Compensation Technician