ALASKA WORKERS' COMPENSATION BOARD

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

Wanda Waldon, Employee, Claimant, v. McDonald's Corp., Employer, and Zurich American Insurance Co. Insurer, Defendants.	)	FINAL DECISION AND ORDER AWCB Case No. 200423432 AWCB Decision No. 13-0104 Filed with AWCB Anchorage, Alaska on August 29, 2013

Wanda Waldon's October 24, 2012 Petition to Set Aside Compromise and Release Agreement, and Employer's January 29, 2013 Petition to Dismiss Ms. Waldon's claims, were heard on June 18, 2013 in Anchorage, Alaska, a date selected on February 28, 2013. Wanda Waldon ("Employee") represented herself, appeared personally and testified. Attorney Michael Budzinski represented McDonald's Corporation and Zurich American Insurance Company (collectively "Employer"). The record closed at the hearing's conclusion on June 18, 2013.

ISSUES

Employee contends the parties' June 25, 2009 Compromise and Release Agreement ("C & R") should be set aside because she requires further medical care for symptoms arising from her 2004 work injury, and because she was not competent to contract at the time she signed the agreement.

She further contends the parties' June 25, 2009 C & R should be set aside due to fraud, duress, and harassment.

Employer contends there is no evidence of fraud, duress, or harassment, nor evidence Employee was not competent to contract when she signed the C & R. Employer contends the board correctly determined the agreement was in Employee's best interest, and no grounds exist to set aside the C & R.

1. *Should the parties' June 25, 2009 Compromise and Release Agreement be set aside?*

Employer contends that if the Compromise and Release Agreement is sustained, Employee's outstanding claims, filed November 7, 2011 and September 7, 2012, should be dismissed. While Employee did not address this issue directly, it is presumed that since she contends the C & R should be set aside, her claims should not be dismissed.

2. *Should Employee's November 7, 2011 and September 7, 2012 claims be dismissed?*

FINDINGS OF FACT

The following facts and factual conclusions, relevant to the issues presented, are established by a preponderance of the evidence:

1. Employee reported she was injured on December 16, 2004, when she tripped on the edge of a floor drain and fell, striking her left hand against a nearby sink. She sought treatment thereafter at Providence Alaska Medical Center Emergency Room. X-rays taken of her left hand were normal. She was diagnosed with strains of the left hand, left shoulder and arm, given a Velcro splint and discharged. (Compromise & Release Agreement, June 25, 2009).
2. Employer controverted temporary total disability (TTD) and temporary partial disability (TPD) after March 10, 2005, when Employee continued her full-time work as an assisted living caretaker during this time, and because Employer had offered Employee light duty work within her physician's restrictions. (*Id.* at 2).
3. On April 5, 2005, Employee's treating physician, Michael Gevaert, M.D., referred Employee to occupational and physical therapy and released her to work. (*Id.*).
4. On April 19, 2005, Employee filed a workers' compensation claim seeking additional TTD, TPD and mileage reimbursement. (*Id.*).

5. On June 2, 2005, Employer controverted all benefits due to Employee's failure to return releases. (*Id.* at 3).
6. In a letter dated July 21, 2005, Dr. Gevaert commented that his diagnostic workup results did not correlate with Employee's symptoms or mechanics of the reported work injury. He noted that the MRI evidence of protrusions in the cervical spine were not the result of the work injury and that EMG and nerve conduction tests ruled out cervical radiculopathy and peripheral entrapment neuropathy. He found Employee medically stable and without ratable impairment. He stated he did not believe Employee's subjective neck complaints were directly or indirectly related to the work injury. It was also his opinion Employee's condition did not require further intervention, including physical therapy, chiropractic treatment or interventional pain treatment. He recommended over-the-counter anti-inflammatories. (*Id.*).
7. On August 17, 2005, based on Dr. Gevaert's July 21, 2005 report Employee was medically stable, Employer again controverted TTD and TPD. (*Id.*).
8. On June 7, 2007, Employer again controverted all benefits due to Employee's failure to return releases. (*Id.* at 3).
9. On July 16, 2007, Employee filed a new claim for TPD, medical and transportations costs, reemployment benefits eligibility, penalty, interest and unfair or frivolous controversion. (Claim, July 16, 2007). Employer controverted on July 23, 2007. (controversion, July 23, 2007).
10. On July 31, 2007, Dr. Gevaert opined that Employee's reported shoulder condition was related to degenerative arthritis in the acromioclavicular joint, not to the work injury. (Dr. Gevaert letter, July 31, 2007.).
11. On September 15, 2007, Employee attended an employer medical evaluation (EME) with Keith Holley, M.D. and Eugene Wong, M.D. The EME physicians diagnosed left shoulder sprain/strain related to the December 16, 2004 work injury; left shoulder acromioclavicular joint degenerative changes, pre-existing and not related to the December 16, 2004 work injury; age-related changes of the cervical spine, without clinical or radiographic evidence of radiculopathy, unrelated to the work injury; and a history of bipolar disorder and depression documented prior to the work injury. They further opined that any sprain/strain from the work injury would have resolved within three months and would not be a substantial factor in Employee's ongoing symptoms. They opined that any treatment received after July 2005 was not related to the work

injury and no further physical therapy, medications, chiropractic treatment or surgery was recommended. (*Id*. at 4).

12. On October 19, 2007, Employer again controverted TPD and medical benefits after May 2005, as well as all other medical treatment for symptoms and conditions not related to the December 16, 2004 work injury. (Controversion, October 19, 2007).
13. In May, 2009 the parties entered into a proposed C & R resolving any and all claims Employee might have for injuries Employee may have sustained during her employment with Employer, in exchange for $15,000.00. The proposed C & R was initially denied because Employee was unrepresented, was waiving future medical benefits, the Board was uncertain whether the agreement was in Employee's best interest and wished to question the parties directly. (C & R denial letter, May 29, 2009). The matter was set for hearing under 8 AAC 45.160(d)(2)(B)(ii) on June 24, 2009.
14. At the June 24, 2009 hearing, Employee appeared in person. She testified she was currently employed, she had obtained retraining through the Division of Vocational Rehabilitation, she believed she had been diagnosed with a torn rotator cuff that Dr. Gevaert "missed," but would not get shoulder surgery in any event. Employee conceded she had only been prescribed physical therapy (PT), not surgery, and while she still had some aching in her shoulder, she was no longer taking medicine for pain, and needed only to strengthen her shoulder, which she could do on her own at the gym. Employee conceded she had given her physicians "strict orders" not to release her medical records to Employer. Employee further testified she had between two and three thousand dollars in outstanding medical bills which she understood would be her responsibility were the C & R approved, stating "I'm prepared for that." She conceded she had a subsequent shoulder injury while lifting trays working at IHOP.[1] (Waldon). Employee testified she understood the C & R was a full and final settlement of her claims against Employer and it would be "almost impossible" for her to resurrect her case. She stated she understood this was the case even if her shoulder, neck or left hand or arm symptoms turned out to be more serious than she then believed them to be. She was told about a potential right to a second independent medical evaluation in the event of a medical dispute, but waived that right. She testified she understood she was waiving all of her rights, did not wish to speak with a claimant's attorney, and declared her belief the agreement was in her best interest because she

[1] International House of Pancakes.

was in less pain, was able to function better, and was ready to close this case and to pursue her education, stating "I'm not pushing it any further." (Waldon). She had no further questions for the Board at the close of her testimony. (Waldon).

15. Employee's testimony at the June 24, 2009 hearing was articulate, coherent, knowledgeable and left no doubt she understood the terms and consequences of the agreement, and was competent to enter into a legally binding contract. (Experience). Although the medical records in the Board's file at the time the C & R was filed reflected Employee's history of and treatment for bipolar disorder, and past illicit drug use, there is no evidence Employee was not competent to contract when she signed the proposed agreement on May 22, 2009, nor at the June 24, 2009 hearing. (Record).
16. Based on Employee's credible representations, and her answers to the panel's questions, the Board found the C & R was in Employee's best interest. The C & R was signed and issued on June 25, 2009. (C & R).
17. Paragraph 5.A. of the C & R reads in relevant part:

> The employer and carrier agree to pay the employee the sum of $15,000.00 [FIFTEEN THOUSAND AND NO/100 DOLLARS] . . . In consideration thereof, the employee accepts said compromise funds in full and final settlement of all claims . . . (*Id.*).

18. Paragraph 5.B. states:

> The employee waives her entitlement to any and all past, present and future compensation benefits . . . including . . . temporary total disability, temporary partial disability, permanent partial impairment and permanent total disability, as well as penalties and interest thereon . . . [for any] injures received in the course and scope of the employee's past employment with the employer. The employee further waives any claim for a compensation rate adjustment that could be asserted . . . (*Id.*).

19. Paragrah 5.C. provides:

> The employee waives her entitlement to reemployment benefits of any kind . . . (*Id.*).

20. Paragraph 5.D. acknowledges:

> The employee waives her entitlement to past and future medical and related benefits . . . arising from or necessitated by the 12/16/04 incident and any other injuries to her neck, left arm, hand or shoulder received in the course and scope of the employee's past employment with the employer. (*Id.*).

21. Paragraph 5.F. states:

> The employee understands and acknowledges that her condition(s) may progress, worsen, be greater in degree, or different in kind or character than that which is known at present, and that there may be latent or undiscovered injuries associated with said incident. Nonetheless, the employee acknowledges her intent to release the employer and carrier from any and all liability for the benefits waived through this agreement.

22. Employee's initials appear at the bottom of every page of the C & R. (Observation).

23. The C & R bears Employee's notarized signature on page 8, beneath a declaration which reads:

> I am the employee named in this Compromise and Release. I have read the agreement and understand that this is a release of certain workers' compensation benefits. I represent that I am fully competent and capable of understanding the benefits I am releasing and the binding effect of this agreement. To the best of my knowledge, the facts have been accurately stated in this Compromise and Release. No representations or promises have been made to me by the employer or carrier or their agents in this matter which have not been set forth in this document, and I have not entered into this agreement through any coercion or duress created by the employer or carrier or their agents in this matter. I am signing this agreement freely and voluntarily because I agree that settlement is in my best interest.

24. Employer paid Employee the $15,000.00 settlement sum following the Board's approval of the C & R. (Employer representation at hearing).

25. Since June 25, 2009, Employee has filed the following pleadings:

    a) A November 7, 2011 workers' compensation claim (WCC or claim), seeking permanent partial impairment (PPI), medical and transportation costs, reemployment benefits, a compensation rate adjustment, penalty, interest and finding of unfair or frivolous controversion. (Prehearing conference summary, February 28, 2013).

    b) A September 7, 2012 WCC, seeking temporary total disability benefits (TTD), temporary partial disability benefits (TPD), PPI, medical and transportation costs, reemployment benefits eligibility review, compensation rate adjustment, finding of unfair controversion, attorney fees and costs. (*Id*.).

    c) An October 24, 2013 Petition to Set Aside C & R (Petition); and

    d) A January 24, 2013 Petition, seeking to amend her previous claims "to include hip problem developed as a result of the injury. Also shoulder joint affected from injury." This pleading also sought a second independent medical evaluation (SIME). (Petition).

26. Employer has controverted and denied all of Employee's post-C & R claims and petitions based on the terms of the June 25, 2009 C & R. (Controversions, Answers, various dates).
27. On January 29, 2013 Employer filed a Petition to Dismiss Employee's post-C & R claims and petitions. (Petition). On February 20, 2013, Employer filed an Affidavit of Readiness for Hearing (ARH) on its Petition to Dismiss. (ARH).
28. Medical records from Providence Family Medicine Center (Providence) spanning the period May 23, 2012 through February 8, 2013 were filed with the Board on February 26, 2013 and June 13, 2013. (Record).
29. The medical records reflect Employee suffered a broken ankle (2009) and a broken toe (2012) since the parties' settlement agreement was approved in 2009. (Medical records, various).
30. They reflect Employee complaining of shoulder pain from her use of a wheelchair after she suffered a broken toe. (Chart note, November 7, 2012).
31. The records reflect Employee's and her physician's belief her right hip pain may come from sleeping on her right side due to left shoulder pain. (Letter from Rebecca A. Clark, M.D., February 8, 2013).
32. An x-ray report showed "early degenerative changes of the right hip." (X-ray report March 22, 2013).
33. The medical records reflect Employee's providers repeatedly addressing her obesity and its danger to her overall health if she does not lose weight. (Medical records, various).
34. The medical records reflect Employee obtaining quarterly shoulder injections for "left acromioclavicular osteoarthrosis," which "worked wonders." (Procedure note, November 13, 2012; Chart note, December 7, 2012).
35. Employee submitted "To Whom it May Concern" letters from Dr. Clark stating Employee has "numerous medical problems including chronic pain from arthritis in her shoulders, knees, and lower back," "problems with her right hip and thigh, concerning for developing bursitis or arthritis," and several mental health problems including PTSD, bipolar disorder and generalized anxiety disorder. (Letters, January 4, 2013, March 15, 2013). Employee submitted similar letters from an Access Alaska Independent Living Advocate, an Anchorage Neighborhood Health Center nurse, and a student clinician at Psychological Services Center at the University of Alaska Anchorage. (Letters dated September 27, 2012, September 23, 2011, and October 12, 2010, respectively.).

36. Dr. Clark further opined, "It is my medical opinion that Wanda Waldon may return to light duty immediately with the following restrictions: being able to sit and rest most of the day as both legs are now in pain." (Letter, September 25, 2012).
37. On June 18, 2013, the parties' respective petitions came on for hearing. (Prehearing conference summary, February 28, 2013). Employee appeared in person and testified. The hearing officer presiding at the June 18, 2013 hearing was the same hearing officer present at the June 24, 2009 C & R denial hearing. (Record).
38. Employee testified that at the time she made the decision to enter into the C & R she was homeless, in pain, just wanted treatment for her shoulder, and her mental health was not stable. (Waldon).
39. Employee testified that at the time she made the decision to enter into the C & R she wasn't thinking clearly and was under duress. (Waldon).
40. She testified that the $15,000.00 settlement sum was insufficient because her outstanding medical and related transportation expenses at the time were more than that amount, and the reemployment assistance she received through Division of Vocational Rehabilitation only paid for her books, psychiatric care and medications, not $20,000.00 in tuition charges from Charter College she would incur. (Waldon).
41. Employee testified that Dr. Gevaert mistakenly opined she did not suffer a rotator cuff tear, but an MRI demonstrated she had suffered a rotator cuff tear. (Waldon). Employee made the same representation at the June 24, 2009 C & R denial hearing. (Finding of Fact 14
42. The Providence medical records Employee filed on June 13, 2013 reflect her repeated statements to providers of having suffered a rotator cuff tear. On November 7, 2012, Rebecca Clark, M.D., noted "review of the MRI actually shows subacromial arthritis . . . not a rotator cuff tear." (Medical records).
43. Employee's June 18, 2013 testimony contradicted the testimony she gave at the C & R denial hearing held on June 24, 2009, described in Finding of Fact 14. (*Compare* hearing record, June 24, 2009 *with* hearing record June 18, 2013; Judgment, observation, facts of the case and inferences therefrom).
44. Employee's June 18, 2013 testimony was not credible. (Judgment).

PRINCIPLES OF LAW

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

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 23.30.012. Agreements in regard to claims.** (a) At any time after death, or after 30 days subsequent to the date of injury, the employer and the employee . . . have the right to reach an agreement in regard to a claim for injury . . . under this chapter . . . but a memorandum of the agreement in a form prescribed by the board shall be filed with the board. Otherwise, the agreement is void for any purpose. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the compensation notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. The board may approve lump-sum settlements when it appears to be in the best interest of the employee.

A workers' compensation C&R is a contract, and subject to interpretation as any other contract. *Seybert v. Cominco Alaska Exploration*, 182 P.3d 1079, 1093-1094 (Alaska 2008). Clear and convincing evidence is necessary in order to set aside a C & R. *Olsen Logging Co. v. Lawson*, 856 P.2d 1155 (Alaska 1993).

The Alaska Workers' Compensation Act (Act) does not permit workers' compensation settlement agreements to be set aside due to a unilateral or mutual mistake of fact. *Id. at* 1158-59. That an employee did not know the extent of his or her disability at the time the agreement was signed is a mistake of fact, and does not justify setting aside a C & R. *Smith v. CSK Auto, Inc*., 204 P.3d 1001, 1007-1008 (Alaska 2009).

A workers' compensation C & R may be voided if based on fraud or misrepresentation. The party seeking to void the contract for fraud or misrepresentation must show, by clear and convincing evidence: (1) a misrepresentation was made; (2) which was fraudulent or material; (3) which induced the party to enter the contract; and (4) upon which the party was justified in relying. *Seybert* at 1093-1094.

A C & R may also be voided for duress or coercion. The party seeking to void the agreement for duress or coercion must show, by clear and convincing evidence: 1) one party involuntarily accepted the terms of another; 2) circumstances permitted no other alternative; and 3) such circumstances were the result of coercive acts of the other party. *Helstrom v. North Slope Borough*, 797 P2d 1192, 1197 (Alaska 1990).

Clear and convincing evidence is "evidence that is greater than a preponderance, but less than proof beyond a reasonable doubt." It is "that amount of evidence which produces in the trier of fact a firm belief or conviction about the existence of a fact to be proved." *Buster v. Gale*, 866 P.2d 837, 844 (Alaska 1994) (quoting *Castellano v. Bitkower*, 216 Neb. 806, 346 N.W.2d 249, 253 (1984)).

> **AS 23.30.122. Credibility of witnesses.** The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded a witness's testimony, including medical testimony and reports, is conclusive even if the evidence is conflicting or susceptible to contrary conclusions. The findings of the board are subject to the same standard of review as a jury's finding in a civil action.

The board has the sole power to determine witness credibility, and its findings about weight are conclusive even if the evidence is conflicting. *See, e.g., Harnish Group, Inc. v. Moore*, 160 P.3d 146, 153 (Alaska 2007); *Thoeni v. Consumer Electronic Services*, 151 P.3d 1249, 1253 (Alaska 2007); *Municipality of Anchorage v. Devon*, 124 P.3d 424, 431 (Alaska 2005).

ANALYSIS

1. Should the June 24, 2009 Compromise and Release Agreement be set aside?

A workers' compensation C & R is a contract subject to interpretation as any other contract. A C & R may be set aside for fraud, misrepresentation, coercion or duress. A C & R may not be set aside due to a unilateral or mutual mistake of fact by a party.

A party seeking to void a C & R for fraud or misrepresentation must show by clear and convincing evidence: (1) a misrepresentation occurred; (2) which was fraudulent or material; (3) which induced the party to enter the contract; and (4) upon which the party was justified in relying. Employee does not allege, nor has she presented any evidence that a fraudulent or material misrepresentation was made to her, upon which she relied, and which induced her to sign the agreement. Accordingly, the C & R may not be set aside for fraud or misrepresentation.

A party seeking to void a C & R for coercion or duress must show by clear and convincing evidence: 1) the party involuntarily accepted the terms of another; 2) circumstances permitted no other alternative; and 3) such circumstances were the result of coercive acts by the other party.

Citing her history of mental illness, Employee contends she was not competent to contract at the time she signed the C & R. This allegation directly contradicts both her demeanor and her testimony at the June 24, 2009 C & R denial hearing. When she testified in support of the C & R on June 24, 2009, Employee was articulate, coherent, knowledgeable and left no doubt she was competent to enter into a legally binding contract. In the body of the C & R itself she swore she was competent to contract. Notwithstanding Employee's mental health history, of which the Board was aware at the June 24, 2009 hearing, there is no persuasive evidence Employee was not competent when she signed the proposed agreement on May 22, 2009, or when she testified in support of it at the June 24, 2009 hearing.

Employee further contends she was under duress when she signed the agreement because she was homeless, in pain, and wanted treatment for her shoulder. However, one's own circumstances cannot form the basis for setting aside a C & R for duress. *Milton v. UIC Construction*, Supreme Court No. S-14161, August 21, 2013.

Employee alleges the settlement was unfair because it did not cover her medical and educational expenses, and she should have received retraining benefits. However, these allegations also contradict Employee's representations at the June 24, 2009 hearing. Employee is not credible.

At the C & R denial hearing Employee testified she was no longer taking medicine for pain, and needed only to strengthen her shoulder, which she could do on her own at the gym. Surgery had never been recommended, but even were it recommended she would not have surgery. She testified she was employed, having obtained retraining through the Division of Vocational Rehabilitation. She said nothing about debts owed to Charter College. The only outstanding bills she had, she stated, were medical bills totaling between two and three thousand dollars, which she understood she would have to pay from the settlement proceeds, acknowledging "I'm prepared for that."

At the hearing Employee testified she understood the C & R was a full and final settlement of her claims against Employer for her December 16, 2004 work injury, and it would be "almost impossible" for her to resurrect her case. She stated she understood the settlement was final even if her symptoms turned out to be more serious than she then believed them to be. She was told about a potential right to a second independent medical evaluation in the event of a medical dispute, but specifically waived that right. She testified she understood she was waiving all of her rights, did not wish to speak with a claimant's attorney, and declared her belief the agreement was in her best interest because she was in less pain, was able to function better, and was ready to close her case to further pursue her education, stating "I'm not pushing it any further." She was asked but stated she had no questions for the Board.

There is no allegation, nor any evidence Employee was pressured by Employer to sign the agreement, had no alternative but to sign the agreement, or agreed to the C & R's terms involuntarily. On the contrary, she swore she was not entering into the agreement as a result of coercion or duress by Employer or its agents. She swore she signed the C & R freely and voluntarily. The alternative of going to hearing rather than settling her claim was always available to her. The C & R may not be set aside for coercion or duress.

Finally, according to the C & R's unambiguous terms, Employee signed it, waiving all future benefits, acknowledging there may be latent or undiscovered injuries associated with the work injury. She acknowledged the work injury may be continuing and progressive in nature. She

stated she understood she may not fully know the extent of her injury at the time of signature. If, as Employee contends, she was not aware of the full extent of her future need for medical care when she signed the C & R in 2009, or her retraining costs were more than she anticipated, she made a mistake of fact. Compromise and release agreements may not be set aside because a party makes a mistake in her determination of a material fact. Employee read the proposed agreement. She signed it stating she read and understood it, and was signing it freely and voluntarily. No basis exists in fact or law to set aside the C & R in this case and it will not be set aside.

2. Should Employee's November 7, 2011 and September 7, 2012 claims be dismissed?

Because the parties' June 25, 2009 C & R will not be set aside, it is fully enforceable. In the C & R Employee waived any and all further claims for disability benefits, reemployment benefits and medical and related benefits arising from her work injury with Employer. Because Employee has waived all further claims for all benefits under the Act, her November 7, 2011 and September 7, 2012 claims for benefits will be dismissed.

CONCLUSIONS OF LAW

1. The parties' June 24, 2009 Compromise and Release Agreement will not be set aside.
2. Employee's November 7, 2011 and September 7, 2012 claims for benefits will be dismissed.

ORDER

1. Employee's Petition to Set Aside Compromise and Release Agreement is DENIED.
2. Employer's Petition to Dismiss Employee's November 7, 2011 and September 7, 2012 claims is GRANTED.

Dated at Anchorage, Alaska on August 29th, 2013.

ALASKA WORKERS' COMPENSATION BOARD

Linda M. Cerro
Designated Chair

Michael O'Connor, Member

APPEAL PROCEDURES

This compensation order is a final decision and becomes effective when filed in the Board's office, unless it is appealed. Any party in interest may file an appeal with the Alaska Workers' Compensation Appeals Commission within 30 days of the date this decision is filed. All parties before the Board are parties to an appeal. If a request for reconsideration of this final decision is timely filed with the Board, any proceedings to appeal must be instituted within 30 days after the reconsideration decision is mailed to the parties or within 30 days after the date the reconsideration request is considered denied because the Board takes no action on reconsideration, whichever is earlier.

A party may appeal by filing with the Alaska Workers' Compensation Appeals Commission: (1) a signed notice of appeal specifying the board order appealed from; 2) a statement of the grounds for the appeal; and 3) proof of service of the notice and statement of grounds for appeal upon the Director of the Alaska Workers' Compensation Division and all parties. Any party may cross-appeal by filing with the Alaska Workers' Compensation Appeals Commission a signed notice of cross-appeal within 30 days after the board decision is filed or within 15 days after service of a notice of appeal, whichever is later. The notice of cross-appeal shall specify the board order appealed from and the grounds upon which the cross-appeal is taken. Whether appealing or cross-appealing, parties must meet all requirements of 8 AAC 57.070.

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.

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 that the foregoing is a full, true and correct copy of the Decision and Order in the matter of WANDA WALDON, employee / applicant; v. MCDONALD'S CORP., employer; ZURICH AMERICAN INSURANCE CO., insurer / defendants; Case No. 200423432; dated and filed in the office of the Alaska Workers' Compensation Board in Anchorage, Alaska, and served upon the parties this 29th day of August, 2013.

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Sertram Harris, Clerk