ALASKA WORKERS' COMPENSATION BOARD

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

PAULA S. FRACKMAN, Employee, Petitioner, v. CHURCH MUTUAL INSURANCE, Employer, and TRAVELERS INDEMNITY CO. OF AMERICA, Insurer, Respondents.	)	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 201218804 AWCB Decision No. 14-0086 Filed with AWCB Fairbanks, Alaska on June 20, 2014

Paula Frackman's (Employee) December 31, 2013 petition for change of venue and her January 30, 2014 petition for an SIME were scheduled on the hearing docket on March 4, 2014 and heard in Fairbanks, Alaska on May 8, 2014. Employee appeared telephonically and represented herself. Attorney Robert Griffin appeared and represented Church Mutual Insurance (Employer). There were no witnesses. The record closed at the hearing's conclusion on May 8, 2014.

ISSUES

Employee contends she works for Employer out of her home in Anchorage and was just in Fairbanks on business when she was injured. She contends her physician, physical therapist and Employer's attorney are also all located in Anchorage. Employee contends she deserves a fair hearing which, she explains, means an opportunity to represent herself in person. Therefore, she seeks a change of venue to Anchorage. Employee is skeptical of Employer's contention it intends to call a fact witness who is located in Fairbanks and contends Employer has yet to produce even a

written statement from that witness. She further contends, even if Employer does call the witness to testify at hearing, he could testify telephonically or by affidavit.

Employer contends it has not stipulated to a change of venue and further contends Fairbanks is the proper venue for this matter under the Act. It contends the proper focus of this issue should be on the parties and the witnesses and, when they are considered, the balance shifts toward keeping venue in Fairbanks. First, Employer contends it intends to call a fact witness, who was with Employee when she was injured. The witness resides in Fairbanks and Employer contends, since he is not a party to this case and "has not asked to be involved in this matter," any inconvenience to him should be minimized. Second, Employer contends it has obtained evidence from the Director, Division of Workers' Compensation, of the number of hearings that have occurred in Alaska's three venues for the past three years. It contends this evidence shows a significantly lighter hearing load in Fairbanks than in Anchorage, which indicates a greater availability of hearings in Fairbanks. Employer requests Employee's petition seeking a change of venue be denied.

1) Should venue be changed from Fairbanks to Anchorage?

Employee alternatively contends Employer previously offered to pay her travel expenses to Fairbanks so she can participate in person at a hearing on her claim and, should she not prevail on her petition for a change of venue, she would expect Employer's offer to remain "on the table."

Employer does not dispute Employee's contention and contends it's previous its previous offer to pay her travel expenses to Fairbanks so she can participate in person at a hearing on her claim will still be honored.

2) Should Employer's offer to pay Employee's travel expenses to Fairbanks so she can personally appear at a hearing on her claim be accepted as a procedural stipulation?

Employee seeks a second independent medical evaluation (SIME) on the basis of disputed medical opinions between her treating physician and Employer's physician. She contends Employer's physician opines work was not the substantial cause of her medical condition, whereas her physician is unable to state work was the substantial cause.

Employer contends the physicians' opinions do not amount to a dispute and opposes an SIME.

3) Should a SIME be ordered?

FINDINGS OF FACT

The following facts and factual conclusions are established by a preponderance of the evidence:

1) On November 21, 2012, Employee sought treatment for a sore and swollen right knee at Bartlett Regional Hospital in Juneau, Alaska. X-rays showed mild degenerative changes, most notably at the femoral patellar and medial femoral tibial joints. A joint effusion was suggested. There was a small, linear corticated appearing ossicle/fragment projecting at the superior margin of the medial femoral condyle in the region of the medial collateral ligament origin. Smooth contour was suggestive of a chronic condition. A knee injury was assessed and Employee was discharged with instructions to ice her right knee, keep her knee elevated, wear a knee immobilizer and follow-up with an orthopedic surgeon. (ER report, November 21, 2012; X-ray report, November 21, 2012).

2) On December 20, 2012, Employee reported injuring her right knee on October 4, 2012 while walking on a customer's premises in Fairbanks, Alaska. The customer's camp director, Dave Goff, was listed as a witness to the injury. (Report off Occupational Injury or Illness, December 20, 2012).

3) On December 3, 2012, Thomas Vasileff, M.D. evaluated Employee and ordered a magnetic resonance imaging (MRI) study. (Vasileff report December 3, 2012).

4) On January 16, 2013, Employee followed-up with Dr. Vasileff, who interpreted a December 14, 2013 MRI to show a torn medial meniscus and chondromalacia patella. Employee felt like she was significantly disabled with knee pain and desired to proceed with arthroscopic surgery, which was scheduled. (Vasileff report, January 16, 2013).

5) On January 18, 2013, Dr. Vasileff performed surgery consisting of an arthroscopic partial medial meniscectomy, partial lateral meniscectomy and a microfracture of a medial femoral condyle chondromalacia grade IV. (Operative report, January 18, 2013).

6) On February 12, 2013, Dr. Vasileff evaluated Employee. Diffuse swelling and restricted range of motion were noted on examination. Dr. Vasileff expected it would take three months before Employee had significant improvement and noted there was a chance the microfracture might not help or even worsen Employee's symptoms. (Vasileff report, February 12, 2013).

7) On April 23, 2013, Employee saw Dr. Vasileff complaining of continuing right knee pain. Dr. Vasileff noted: "She really has not done particularly well postoperatively. We thought she would be doing much better." Dr. Vasileff administered a cortisone injection. (Vasileff report, April 23, 2013).

8) On June 4, 2013, Employee continued to complain of significant knee pain. Dr. Vasileff ordered rehabilitation with physical therapy. (Vasileff report, June 4, 2013).

9) On July 9, 2013, Employee saw Dr. Vasileff for continuing right knee pain. Dr. Vasileff reported Employee "is clearly not making good progress," and thought the physical therapy might be making Employee's knee condition worse. He instructed Employee to discontinue physical therapy and ordered a MRI study. (Vasileff report, July 9, 2013).

10) On July 23, 2013, Dr. Vasileff interpreted a July 17, 2013 MRI, which showed full-thickness chondral lesion along the patella and changes on the medial femoral condyle consistent with a "fairly large" bone infarct. He advised Employee he was going to do some research and follow-up with her in a week. (Vasileff report, July 23, 2013).

11) On July 31, 2013, after reviewing the recent MRI with the radiologist, Dr. Vasileff diagnosed osteonecrosis. He further commented, since Employee's injury, she had developed progressive osteonecrosis, a boney infarct of her medial femoral condyle and a small lesion laterally. Dr. Vasileff did not think conservative treatment would likely be effective and recommended a total knee arthroplasty. (Vasileff report, July 31, 2013).

12) On August 21, 2013, Dr. Vasileff obtained x-rays, which showed a slight narrowing of the medial compartment. No true collapse of the medial femoral condyle or lateral femoral condyle was noted. Reviewing previous x-rays, Dr. Vasileff retrospectively thought there was a "very subtle suggestion" they could be consistent with osteonecrosis or a bone infarct. (Vasileff report, August 21, 2013).

13) On August 23, 2013, Dr. Vasileff discussed Employee's "large osteonecrosis" with her and explained it is an unusual problem and he has "low experience" with it. Dr. Vasileff recommended Employee get another opinion. His report states: "I told them [Employee and her "Work Comp helper"] I might be calling and sending some information to the Mayo Clinic and they agreed to get a second opinion and it might involve sending this information to the Mayo Clinic to an arthroplasty physician there." (Vasileff addendum report, August 23, 2013).

14) On August 23, 2013, Dr. Vasileff wrote a one-and-a-half page letter to Daniel J. Berry, M.D. at the Mayo Clinic. His letter was accompanied by Employee's MRI studies and explained Employee's injury, failed conservative treatment efforts and her unsuccessful surgery. Dr. Vasileff concluded his letter:

> I had a discussion with [Employee], as well as her Workman's Compensation counselor, [name omitted], and told them I would see if I could get a second opinion and they agreed to have a second opinion.
>
> I appreciate your recommendation. Best regards.

(Vasileff letter, August 23, 2013).

15) On September 5, 2013, Dr. Berry wrote Dr. Vasileff. His letter states Employee "clearly has a difficult problem with extensive osteonecrosis of the medial femoral condyle and a small lesion of the lateral condyle." Dr. Berry then addresses numerous treatment options, including joint sparing operation, continued conservative treatment and unicompartmental arthroplasty and total knee arthroplasty. Dr. Berry had also discussed Employee's case with a colleague, Rafael Sierra, M.D., who was not certain Employee was a candidate for unicompartmental arthoplasty. Dr. Berry enclosed a memo from Dr. Sierra along with his own. He concluded his letter:

> I hope that the information provided is of some assistance. If at any point you feel it would be helpful for her to make the trip to Mayo Clinic, of course, I would be happy to arrange to see her along with Dr. Sierra.
>
> I hope this information is of help, and after you receive my letter, please feel free to give me a call if you would like to discuss further.

(Berry letter, September 5, 2014).

16) On September 10, 2013, Dr. Sierra wrote a memo to Dr. Berry expressing concern over the size of Employee's osteonecrotic lesion. On account of the lesion being so large, he was not certain unicompartmental arthoplasty would be a viable treatment option. Dr. Sierra concluded his memo: "I will be glad to see her with you if she decides to come. Please feel free to contact me if you have any questions."

17) At hearing, Employer objected to the hearing chair's "characterization" of Employee's association with Drs. Berry and Sierra as a "referral." (Record).

18) On September 21, 2013, Keith Holley, M.D., performed an employer's medical evaluation (EME). Dr. Holley diagnosed right knee sprain with medial and lateral meniscus tears and

opined work was the substantial cause of these conditions. He also diagnosed right knee osteonecrosis of the medial and lateral condyles and early medial compartment osteoarthritis, which he did not think were related to Employee's work, but rather were the results of a preexisting degenerative condition. (Holley report, September 21, 2013).

19) On November 5, 2013, in response to a conversation with Employer's insurer, Dr. Holley confirmed further clarifications of the opinions expressed in his September 21, 2013 report and during a telephone conversation a day earlier. (Insurer letter, November 4, 2013).

20) On November 6, 2013, Employer controverted all benefits on the basis of Dr. Holley's September 21, 2013 report. (Controversion Notice, November 6, 2013).

21) On January 7, 2014, Dr. Vasileff executed an affidavit, which states:

> I have been asked to provide my opinion regarding whether or not the October 4, 2012 on-the-job injury is the substantial cause in the bony infarct and osteonecrosis conditions with which [Employee] has been diagnosed. It is my medical opinion, to a reasonable degree of medical certainty, that I am unable to definitively state that the on-the-job injury is the substantial cause in the bony infarct and osteonecrosis conditions that are present in [Employee's] knee and any related need for treatment for these conditions.

(Vasileff aff., Janaury 7, 2014).

22) As a hearing exhibit, Employer submitted an email from the Director, Division of Workers' Compensation. The email contains the following hearing statistics:

Calendar Year	Fairbanks	Anchorage	Juneau
2011	51	164	51
2012	67	184	32
2013	39	178	27

(Monagle email, April 17, 2014).

23) Rarely do witnesses to a work injury testify at workers' compensation hearings on the merits of a claim. (Experience).

24) Physician witnesses usually do not testify at workers' compensation hearings on the merits of a claim, and when they do, they typically testify telephonically. (*Id*.).

25) It is exceptionally rare for a physical therapist to testify at workers' compensation hearings on the merits of a claim. (*Id*.).

26) Air travel between Anchorage and Fairbanks takes approximately one hour. (*Id*.).

27) Parties to workers' compensation cases routinely travel from Anchorage to Fairbanks and return in a single day. (*Id*.).

28) Six hearing officers are assigned duty at the workers' compensation office in Anchorage; two hearing officers are assigned duty at the workers' compensation office in Fairbanks. (Division organizational chart, June 16, 2014).

29) Second Independent Medical Evaluations (SIME) are costly. (Experience).

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. Intent of the legislature and construction of chapter.** It is the intent of the legislature that
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> (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. . . .
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> (4) hearings in workers' compensation cases shall be impartial and fair to all parties and that all parties shall be afforded due process and an opportunity to be heard and for their arguments and evidence to be fairly considered.
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> **AS 23.30.005. Alaska Workers' Compensation Board.** (a) The Alaska Workers' Compensation Board consists of a southern panel of three members sitting for the first judicial district, two northern panels of three members sitting for the second and fourth judicial districts, five southcentral panels of three members each sitting for the third judicial district, and one panel of three members that may sit in any judicial district. . . .
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> **AS 23.30.010. Coverage.** (a) Except as provided in (b) of this section, compensation or benefits are payable under this chapter for disability or death or the need for medical treatment of an employee if the disability or death of the employee or the employee's need for medical treatment arose out of and in the course of the employment. . . . When determining whether or not the death or disability or need for medical treatment arose out of and in the course of the

> employment, the board must evaluate the relative contribution of different causes of the disability or death or the need for medical treatment. Compensation or benefits under this chapter are payable for the disability or death or the need for medical treatment if, in relation to other causes, the employment is the substantial cause of the disability or death or need for medical treatment. . . .

Employment may still be the substantial cause of an employee's disability or need for medical treatment even though the employee had a preexisting condition.

> It is a fundamental principle in workers' compensation law that the employer must take the employee "as he finds him." A pre-existing condition does not disqualify a claim if the employment aggravates, accelerates or combines with the preexisting condition to produce the disability for which compensation is sought."

Keays v. Amerigas, Inc., AWCB Decision No. 11-0178 (December. 19, 2011) (citations omitted).

> **AS 23.30.095. Medical treatments, services, and examinations.** (a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires . . . .
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> (k) In the event of a medical dispute regarding determinations of causation, medical stability, ability to enter a reemployment plan, degree of impairment, functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's independent medical evaluation, the board may require that a second independent medical evaluation be conducted by a physician or physicians selected by the board from a list established and maintained by the board. . . .
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> **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. The place or places shall be reasonably convenient for the employee. The physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation may be payable for a period during which the employee refuses to submit to examination. . . .

8 AAC 45.090(b) provides for orders requiring an employer to pay for an employee's examination pursuant to AS 23.30.095(k) or §110(g). Section 095(k) and §110(g) are procedural in nature, not substantive, for the reasons outlined in *Deal v. Municipality of Anchorage*, AWCB Decision No. 97-0165 (July 23, 1997) at 3; *see also Harvey v. Cook Inlet Pipe Line Co.*, AWCB Decision No. 98-0076 (March 26, 1998). Considering §135(a) and §155(h), wide discretion exists under

AS 23.30.110(g) to consider any evidence available when deciding whether to order an SIME to assist in investigating and deciding medical issues in contested claims, to best "protect the rights of the parties."

The Alaska Workers' Compensation Appeals Commission (Commission) in *Bah v. Trident Seafoods Corp.*, AWCAC Decision No. 073 (February 27, 2008) addressed the board's authority to order an SIME under §095(k) and §110(g). With regard to §095(k), the Commission referred to its decision in *Smith v. Anchorage School District*, AWCAC Decision No. 050 (January 25, 2007), at 8, in which it confirmed:

> [t]he statute clearly conditions the employee's right to an SIME . . . upon the existence of a medical dispute between the physicians for the employee and the employer.

The Commission further stated in *dicta*, before ordering an SIME it is necessary to find the medical dispute is significant or relevant to a pending claim or petition and the SIME will assist the board in resolving the dispute. *Bah v. Trident Seafoods Corp.*, AWCAC Decision No. 073 (February 27, 2008), at 4.

The Commission outlined the board's authority to order an SIME under §110(g), as follows:

> [T]he board has discretion to order an SIME when there is a significant gap in the medical or scientific evidence and an opinion by an independent medical examiner or other scientific examination will help the board in resolving the issue before it. . . . Ordering an SIME is not proper if it serves no purpose to the board by advancing its understanding of the medical evidence or by filling in gaps in the medical evidence, where that gap in evidence, or lack of understanding of the medical evidence, prevents the board from ascertaining the rights of the parties.

Id. at 5.

Under either §095(k) or §110(g), the Commission noted the purpose of ordering an SIME is to assist the board, and is not intended to give employees an additional medical opinion at the expense of employers when employees disagree with their own physician's opinion. *Id.* When deciding whether to order an SIME, the board typically considers the following criteria, though the statute does not require it:

1) Is there a medical dispute between Employee's physician and an EME?

2) Is the dispute significant? and

3) Will an SIME physician's opinion assist the board in resolving the disputes?

Deal v. Municipality of Anchorage (ATU), AWCB Decision No. 97-0165 (July 23, 1997), at 3. *See also*, *Schmidt v. Beeson Plumbing and Heating*, AWCB Decision No. 91-0128 (May 2, 1991). Accordingly, an SIME pursuant to §095(k) may be ordered when there is a medical dispute, or under §110(g) when there is a significant gap in the medical or scientific evidence. Further the Commission holds an SIME may be ordered when, because of a lack of understanding of the medical evidence, the parties' rights cannot be ascertained. It stated:

> Ordering an SIME is not proper if it serves no purpose to the board by advancing its understanding of the medical evidence or by filling in gaps in the medical evidence, where that gap in evidence, or lack of understanding of the medical evidence, prevents the board from ascertaining the rights of the parties in the dispute before the board.

Bah at 8.

> **8 AAC 45.050. Pleadings. . . .**
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> (f) **Stipulations**
> . . . .
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> (2) Stipulations between the parties may be made at any time in writing before the close of the record, or may be made orally in the course of a hearing or a prehearing.
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> (3) Stipulations of fact or to procedures are binding upon the parties to the stipulation and have the effect of an order unless the board, for good cause, relieves a party from the terms of the stipulation. . . .
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> **8 AAC 45.072. Venue.** A hearing will be held only in a city in which a division office is located. Except as provided in this section, a hearing will be held in the city nearest the place where the injury occurred and in which a division office is located. The hearing location may be changed to a different city in which a division office is located if
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> (1) the parties stipulate to the change;

> (2) after receiving a party's request in accordance with 8 AAC 45.070(b)(1)(D) and based on the documents filed with the board and the parties' written arguments, the board orders the hearing location changed for the convenience of the parties and the witnesses; the board's panel in the city nearest the place where the injury occurred will decide the request filed under 8 AAC 45.070(b) (1)(D) to change the hearing's location; or
>
> (3) the board or designee, in its discretion and without a party's request, changes the hearing's location for the board's convenience or to assure a speedy remedy.

In determining whether to retain or change venue at a party's request in a particular case, the board may not consider its own convenience. A finding that a particular venue better serves the convenience of the parties and witnesses must be supported by substantial evidence. *Voorhees Concrete Cutting v. Monzulla*, AWCAC Decision No. 114 (August 6, 2009).

ANALYSIS

1) Should venue be changed from Fairbanks to Anchorage?

Employer opposes Employee's petition for change of venue on two bases. First, it contends it intends to call a fact witness, who resides in Fairbanks and, who was reportedly with Employee at the time of injury. Employer contends retaining venue in Fairbanks would minimize the witness' inconvenience.

Although Employer properly contends the focus of the inquiry is on the convenience of the parties and witnesses, *Monzulla*, its first basis is unpersuasive. This decision shares Employee's skepticism with respect to the witness in question. Rarely do such "fact witnesses" appear at hearing. Moreover, as Employee points out, should Employer wish to employ the witness' testimony in defense of Employee's claim, it may do so either by affidavit or telephonically which, incidentally, would be even more convenient still for the witness.

Second, Employer contends statistics it obtained from the Director, Division of Workers' Compensation, which show a significantly "lighter" hearing load in Fairbanks than in Anchorage, which indicates a greater availability of hearings in Fairbanks. Here, too, Employer's basis is unpersuasive. The statistics Employer relies on for its contentions show the total number of

hearings held in Fairbanks and Anchorage for each of the past three years, nothing more. And, while they do show a greater number of hearings were held in Anchorage by a significant ratio, over three to one, they do not show, as Employer contends, a greater availability of hearing dates in Fairbanks. This is because Employer does not take into account six hearing officers are assigned duty at the Anchorage workers' compensation office, while only two are assigned duty in Fairbanks - again, a ratio of three to one.

Meanwhile, Employee contends venue should be changed to Anchorage on two bases. First, she correctly contends she is entitled to a fair hearing, AS 23.30.001(4), and further contends a fair hearing includes an opportunity to personally appear. However, Employer's offer to pay Employee's travels expenses to Fairbanks so she can personally appear at a hearing on her claim would render her contention moot. Any inconvenience associated with such travel is considered *de minimis*. Air travel between Anchorage and Fairbanks takes approximately one hour and parties routinely travel from Anchorage to Fairbanks for workers' compensation hearings and return in a single day.

Additionally, Employee's contention her physician, physical therapist and Employer's attorney are all located in Anchorage, so venue should be changed there, is also unpersuasive. First, the board favors the production of medical evidence in the form of written reports. 8 AAC 45.120(k). Employee's physical therapy and physician reports are already in the medical record. Furthermore, physician experts usually do not testify at hearings, even hearings on the merits of claims and, when they do, they typically testify telephonically. It is exceptionally rare for a physical therapist to testify at a hearing at all. As for the inconvenience of Employer's attorney traveling to Fairbanks, it is believed he and his client are in the best position to judge their own convenience in this regard.

A finding that a particular venue better serves the convenience of the parties and witnesses must be supported by substantial evidence. *Monzulla.* Here, neither party presents a compelling case why venue should either be retained in, or transferred from, Fairbanks. There being no basis to deviate from the default provision of 8 AAC 45.072 setting venue at the Division office closest

to the location of the injury, Employee's petition will be denied and venue will remain in Fairbanks.

2) Should Employer's offer to pay Employee's travel expenses to Fairbanks so she can personally appear at a hearing on her claim be accepted as a procedural stipulation?

At hearing, Employee contended Employer had previously offered to pay her travel to Fairbanks so she could personally appear for a hearing on her claim. In the event Employee did not prevail on her petition for a change of venue, she contended she would expect Employer's offer to remain "on the table." In response, Employer confirmed its previous offer still stood.

Parties may stipulate to facts and procedure. 8 AAC 45.050(f). Given the results of this decision and the bases for them, Employee's alternate request for Employer to pay her travel to Fairbanks so she can personally appear for a hearing on her claim, and Employer's acquiescence to Employee's request on the record, will be accepted as a procedural stipulation of the parties.

3) Should a SIME be ordered?

The issue presented here is very narrowly focused. Employer's physician has opined Employee's injury was not the substantial cause of her osteonecrosis. Meanwhile, through his affidavit, Employee's physician states: "It is my medical opinion, to a reasonable degree of medical certainty, that [sic] I am unable to definitively state that the on-the-job injury is the substantial cause in the bony infarct and osteonecrosis conditions that are present in [Employee's] knee …." Employee specifically cites these opinions as evidence of a medical dispute and seeks a SIME.

The Act does not define "dispute," but the *Meriam-Webster Dictionary* (New Edition 2005) defines it as a debate or quarrel. In this case, Dr. Vasileff is unable to state whether work was, or was note, the cause of Employee's condition, and his opinion is best described as a demurer. Since Dr. Vasileff is not opining one way or the other, there is no one with whom Dr. Holley can argue or quarrel on the other side of the issue. Thus, Dr. Vasileff's opinion does not create a medical dispute.

Incidentally, it is recognized a SIME can also be ordered under section .095 to assist the board in resolving an issue before it. *Bah*. Certainly, in the broader sense, a dispute does exist between the parties on the issues of causation and compensability. However, SIME's are costly, and the Commission has made clear, a SIME is not intended to give Employee an additional medical opinion at Employer's expense when she disagrees with her own physician's opinion. *Id.* Therefore, a SIME will not be ordered.

CONCLUSIONS OF LAW

1) Venue will not be changed from Fairbanks to Anchorage.
2) Employer's offer to pay Employee's travel expenses to Fairbanks so she can personally appear at a hearing on her claim will be accepted as a procedural stipulation of the parties.
2) A SIME will not be ordered.

ORDER

1) Employee's December 31, 2013 petition for change of venue is denied.
2) Employer's shall pay Employee's travel expenses to Fairbanks so she can personally appear at a hearing on her claim.
3) Employee's January 30, 2014 petition for a SIME is denied.

Dated in Fairbanks, Alaska on June 20, 2014.

ALASKA WORKERS' COMPENSATION BOARD

/s/_____
Robert Vollmer, Designated Chair

/s/_____
Sarah Lefebvre, Member

/s/_____
Mark Talbert, Member

PETITION FOR REVIEW

A party may seek review of an interlocutory of 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.

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 PAULA S. FRACKMAN, employee / petitioner; v. CHURCH MUTUAL INSURANCE, employer; TRAVELERS INDEMNITY CO. OF AMER., insurer / respondents; Case No. 201218804; dated and filed in the Alaska Workers' Compensation Board's office in Fairbanks, Alaska, and served on the parties on June 20, 2014.

/s/_____
Darren Lawson, Office Assistant