ALASKA WORKERS' COMPENSATION BOARD

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

JOAN A. TREMONT, Employee, Claimant,	)	FINAL DECISION AND ORDER
v.	)	AWCB Case No. 201504871
STATE OF ALASKA, DEPARTMENT OF PUBLIC SAFETY, Employer,	)	AWCB Decision No. 17-0019 Filed with AWCB Anchorage, Alaska on February 9, 2017
and TRISTAR RISK MANAGEMENT, Insurer, Defendants.	)	

Joan Tremont's (Employee) claims were heard on January 19, 2017 in Anchorage, Alaska. The hearing date was selected on November 17, 2016. Employee appeared and testified. Assistant Attorney General David Rhodes appeared and represented the State of Alaska (Employer). There were no other witnesses. The record closed at the conclusion of the hearing on January 19, 2017.

ISSUES

Employee contends she may have been exposed to asbestos while working for Employer. Employee concedes she has not been diagnosed with any asbestos-related illness. However, she contends asbestos-related illness can sometimes take years or decades to develop. Employee seeks an order awarding medical benefits providing regular screening and testing for asbestos-related illness. Employee also seeks an order finding unfair or frivolous controversion.

Employer contends there is no evidence Employee has any asbestos-related illness. Employer contends Employee's exposure to asbestos in the air was minimal, far below accepted thresholds

for safe occupational exposure. Employer also points to the fact that Employee was a regular smoker for many years, so any respiratory illness would likely be linked to tobacco use, rather than asbestos exposure. Employer contends no provision exists in the law for benefits awarding prospective medical screening before evidence of injury or illness. Employer seeks an order denying Employee's claims. Employer contends its controversions were filed in good faith, and were not unfair or frivolous.

1) **Is Employee entitled to medical and related transportation expenses?**

2) **Did Employer unfairly or frivolously controvert benefits?**

FINDINGS OF FACT

The following is established by a preponderance of the evidence:

1) Employee began working for Employer as an office assistant at a warehouse located on West 48th Avenue in Anchorage in 2008. She left the position in October 2013. (Depo. Tremont at 39-31, June 1, 2016). Her position required her to regularly enter and work in the facility's warehouse. (*Id*.).

2) In February 2015, roof drain piping at the 48th Avenue warehouse failed, causing the ceiling to partially collapse. (Decontamination Work Plan, Employer's Exhibit 54).

3) On February 25, 2015, air quality testing was performed at the 48th Avenue warehouse, which concluded insulation containing asbestos was disturbed during the ceiling collapse. (EHS Record, Employer's Exhibit 56).

4) On March 3, 2015, seven air samples from the 48th Avenue warehouse were collected and analyzed to determine the baseline for asbestos. The fibers per cubic centimeter of air (f/cc) ranged from 0.008 to less than 0.002. (Baseline PCM Air Sample Report, March 3, 2015.)

5) On March 5, 2015, 14 samples from the 48th Avenue warehouse were collected for later analysis for asbestos. (PCM Air Sample Report, March 6, 2015).

6) On March 12, 2015, an industrial hygienist investigated water damage and asbestos decontamination at the 48th Avenue warehouse. The report states:

> Roof drain piping failed, resulting in ceiling damage at 524 E. 48th Avenue, Anchorage, Alaska. The ceiling material is non-asbestos-containing gypsum sheet rock. The gypsum joint compound used to tape the seams of the ceiling contained asbestos.

> At the location of the ceiling failure past work had been performed, and some of the asbestos containing joint compound had been replaced with non-asbestos containing joint compound.
>
> The exact amount of asbestos-containing material disturbed during this water event is unknown but is limited to less than a total of 30 lineal feet of gypsum joint.
>
> Baseline air sampling conducted on 3-3-15 showed airborne concentrations of fibers at less than the typical clearance level of 0.01 f/cc.

Alaska Abatement Corporation (AAC) was contracted to remove the damage ceiling material and clean the area impacted by the water leak. AAC contained, transported, and disposed of waste at a municipal landfill. During AAC's work, air monitoring was conducted. When the work was completed, it passed visual inspection and a set of five clearance samples was collected and analyzed by phase contrast microscopy (PCM). All collected samples were below the clearance level of 0.01 f/cc. The results of air monitoring indicated the work performed resulted in minimal disturbance of the existing asbestos-containing materials. There were no elevated airborne fiber concentrations within the offices adjacent to the area where work was performed. Upon completion of work, testing showed the area was safe for general occupancy. (Water Damage and Asbestos De-contamination Report, Matt White, PE CIH, March 12, 2015; White Environmental Consultants Field Log, Joe Haynes, March 5, 2015).

7) On March 13, 2015, Employee reported to internal medicine specialist Irina Grimberg, M.D., she had just learned of an "asbestos leak" in a building where she worked for four years. Employee stated her last day of work in the building was October 30, 2013, almost a year and five months prior to her appointment with Dr. Grimberg. Employee had no pulmonary symptoms or complaints. Employee was a smoker and stopped smoking when she was 51. In 2015, Employee was 60 years old. Employee used an albuterol inhaler on occasion. Employee's respiratory function was normal and there were no abnormalities in her lymphatic system. Dr. Grimberg assured Employee "it is not absolutely certain she would ever develop any disease from this exposure, however, it is important to establish baseline lung imaging." Dr. Grimberg ordered a chest CT scan. (Grimberg Chart Note, March 13, 2015).

8) On April 23, 2015, a CT scan of the chest showed what appeared to be "some small bullae or blebs, probably emphysematous changes." Employee had none of the typical changes commonly

associated with asbestos exposure. There were no visible pleural plaques or pleural calcifications. She had no pulmonary nodules or masses. The most significant abnormality was the presence of a small pericardial effusion. (Cable Chart Note, April 23, 2015).

9) On November 20, 2015, Employee was seen by pulmonary medicine specialist Lawrence Klock, M.D., for an employer's medical examination (EME). Employee told Dr. Klock she worked in a "warehouse type of building" that stored equipment used by the Alaska State Troopers. Employee's job was to manage and distribute equipment, which required a walk from her office into the warehouse. Employee stated she started smoking cigarettes when she was 17 years old and quit when she was 54. Based on imaging studies and pulmonary function tests, Dr. Klock found no evidence Employee had any underlying pulmonary disease, specifically asbestosis. Dr. Klock stated:

> Pulmonary function studies had been performed on February 5, 2015. While the original tracings are not available, the forced expiratory volume in one second of expiration (FEVl) was 84 percent of normal, the forced vital capacity (FVC} was 83 percent of normal and the ratio was "normal." There was a minimal increase of 4 percent with bronchodilator. This would basically be interpreted as within normal limits. . .
>
> There is no evidence, based upon recent imaging studies and pulmonary function tests, of any underlying pulmonary disease, specifically asbestosis. This conclusion is based upon a more-probable-than-not basis. . .
>
> The potential for exposure of this examinee to asbestos is extremely low. The asbestos containing joint compound that was used would normally remain in place and not be aerosolized unless it was disrupted. This water leakage event did cause ceiling damage, but, again, the airborne spread of asbestos fibers would be extremely low. Most of the ceiling material that fell to the floor was water soaked and not aerosolized.
>
> This examinee currently has no evidence of asbestosis and I believe her eventual risk of developing asbestos-related disease is extremely low. . . .

Dr. Klock noted minor and insignificant changes in the "very upper parts" of both Employee's lungs, but stated these were unrelated to her occupation and did not represent asbestos-related diagnosis. The "latency period" from asbestos exposure to manifestation of an asbestos-related pulmonary disease varies from 15 to 20 years. Dr. Klock did not recommend annual screening x-rays and saw no need for ongoing surveillance or diagnostic studies. If Employee experienced

prolonged respiratory symptoms, a chest x-ray was recommended. He also indicated routine screening every five years was appropriate because of Employee's smoking history, but entirely unrelated to her work for Employer. Dr. Klock found Employee had no physical restrictions. (Klock EME Report, November 20, 2015).

10) On March 21, 2016, Employee filed a claim for a finding of unfair or frivolous controversion. The claim describes the nature of the illness or injury as "Asbestos exposure from working in a warehouse from employment period of 2008 to 2013." The employer listed is the Department of Public Safety. The occupation is "Office Assistant II." The claim states:

> [This is to] appeal a controversion notice dated 1/20/16 by Tristar for information in an ongoing investigation and excluding information from the report. I would like to pursue medical examinations and any future medical costs which include care, travel and transportation for myself and my family members. This is an ongoing asbestos case and the findings in the state warehouse building has not concluded. (Workers' Compensation Claim, March 21, 2016).

Employee filed another claim on March 22, 2016, listing a similar description of the injury or illness, and the reason for filing. (Workers' Compensation Claim, March 22, 2016).

11) On May 27, 2016, Employee filed a claim for unspecified temporary total disability (TTD), temporary partial disability (TPD), permanent total disability (PTD), a permanent partial impairment (PPI) benefit, medical costs, transportation costs, and death benefits for Employee's husband. (Workers' Compensation Claim, May 27, 2016).

12) Employer has filed four controversions, with the accompanying reasons for denying benefits:

> (1) July 31, 2015 – All benefits denied. Employee was mailed medical releases multiple times and has not executed them or filed a petition for protective order. Employer relies on AS 23.30.108(a) in suspending or denying benefits.
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> (2) January 25, 2016 – All benefits denied. Employer relies on the November 20, 2015 Dr. Klock EME report.
>
> (3) May 2, 2016 – All benefits denied. Employer relies on the November 20, 2015 Dr. Klock EME report.
>
> (4) June 25, 2016 – All benefits denied. Employer relies on the November 20, 2015 Dr. Klock EME report. (Record).

13) On June 21, 2016, family medicine physician Ernest Meinhardt, M.D., wrote a letter to Employer's attorney which states, "Ms. Tremont has been exposed to asbestos in the workplace. I recommend that she get a chest x-ray every 2 years to monitor for asbestosis." (Letter, June 21, 2016).

14) On July 22, 2016, Dr. Grimberg stated when she evaluated Employee's lungs and respiratory status in March 2015, she did so because Employee complained of possible asbestos exposure. Dr. Grimberg did not find evidence of asbestos-related or any other abnormalities in Employee's lungs. Both spirometry and a CT scan of Employee's lungs were normal. Dr. Grimberg agreed with Dr. Klock's recommendations for Employee to have a chest x-ray every five years. (Letter, July 22, 2016).

15) On September 12, 2016, Employee filed a claim for unspecified TTD, TPD, PTD, a PPI benefit, medical costs, transportation costs, unfair or frivolous controversion, and death benefits. (Workers' Compensation Claim, September 12, 2016).

16) On October 24, 2016, Dr. Meinhardt testified at a deposition he spent "about a minute" writing the June 21, 2016 letter recommending regular screening for asbestosis. Dr. Meinhardt testified he felt obligated to write the letter because Employee was his patient. He agreed with Dr. Grimberg and Dr. Klock there is no medical evidence that Employee has an asbestos-related disease. (Depo. Meinhardt at 8-12, October 24, 2016).

17) Employee testified: She verbally amended her claim to seek only future medical treatment and preventative screening for herself as well as a finding of unfair or frivolous controversion and to withdraw any claim for time loss or PTD at this time. Employee conceded she has not been diagnosed with any asbestos exposure-related illness. However, she understands from her own research and from what medical providers have told her that asbestosis can have a long latency period, possibly up to 15 years. She was not present in the building at the time of the partial ceiling collapse at the 48th Avenue warehouse in February 2015, but only learned of the event after a co-worker or friend told her. Employee does not disagree with any of the findings or methods in the industrial hygiene reports Employer has filed. Employee believes the 48th Avenue warehouse where she worked was generally a dusty place, and she recalls dust collected on floors and shelves. (Employee).

18) Employee is credible. (Experience, judgment, observations, inferences from all of the above).

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 23.30.010. Coverage**. (a) Except as provided in (b) of this section, compensation or benefits are payable under this chapter for disability . . . or the need for medical treatment of an employee if the disability . . . arose out of and in the course of the employment. . . . Compensation or benefits under this chapter are payable for the disability . . . or the need for medical treatment if, in relation to other causes, the employment is the substantial cause of the disability or . . . need for medical treatment. . . .

> **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, not exceeding two years from and after the date of injury to the employee. . . . It shall be additionally provided that, if continued treatment or care or both the on the two-year period is indicated, the injured employee has the right of review by the board. The board may authorize continued treatment or care or both as the process of recovery may require. . . .

> **AS 23.30.105. Time for filing of claims**. (a) The right to compensation for disability under this chapter is barred unless a claim for it is filed within two years after the employee has knowledge of the nature of the employee's disability and its relation to the employment and after disablement. However, the maximum time for filing the claim in any event other than arising out of an occupational disease shall be four years from the date of injury, and the right to compensation for death is barred unless a claim therefor is filed within one year after the death, except that, if payment of compensation has been made without an award on account of the injury or death, a claim may be filed within two years after the date of the last payment of benefits under AS 23.30.041, 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215. It is additionally provided that, in the case of latent defects pertinent to and causing compensable disability, the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding. . . .

Alaska Statute 23.30.105(a) requires that a claim for disability compensation must be filed within two years after the employee has knowledge of the nature of the employee's disability and its relation to the employment and after disablement. The Alaska Supreme Court has previously held, in another case concerning alleged occupational asbestos exposure, subsection .105(a) provides a

latent injury exception to this two-year statute of limitations. For latent injuries, the two-year statute of limitations is tolled "so long as the claimant does not know, and in the exercise of reasonable diligence (taking into account his education, intelligence and experience) would not have come to know, the nature of his disability and its relation to his employment." *Collins v. Arctic Builders, Inc.*, 31 P.3d 1286, 1290 (Alaska 2001) (*Citing W.R. Grasle Co. v. Alaska Workmen's Compensation Bd.*, 517 P.2d 999, 1002 (Alaska 1974)); (*See also Chena Hot Springs, LLC v. Elliott*, AWCAC Decision No. 26 (January 11, 2007)).

In *Egemo v. Egemo Construction Co.*, 998 P.2d 434, 439 (Alaska 2000), the Alaska Supreme Court held when a claim for benefits is premature, the claim should be held in abeyance until it is timely, or it should be dismissed with notice that it may be refiled when it becomes timely. Filing a claim prematurely "does not justify dismissal" of the claim, as the employer was not prejudiced or inconvenienced. *Id*. In summary, *Egemo* stated:

> In our view, when a claim for benefits is premature, it should be held in abeyance until it is timely, or it should be dismissed with notice that it may be refiled when it becomes timely (footnote omitted). In the present case, it would have been appropriate for the Board either to hold Egemo's claim in abeyance until the surgery took place or to notify him that his claim was premature so that he would know to refile it after the surgery. *Id*. at 441.

> **AS 23.30.110. Procedure on claims.** (a) Subject to the provisions of AS 23.30.105, a claim for compensation may be filed with the board . . . and the board may hear and determine all questions in respect to the claim. . . .

The Alaska Supreme Court in *Richard v. Fireman's Fund Insurance Co.*, 384 P.2d 445, 449 (Alaska, 1963), held the board owes a duty to every claimant to fully advise him of "all the real facts" that bear upon his right to compensation, and to instruct him on how to pursue that right.

> **AS 23.30.120. Presumptions.** (a) In a proceeding for the enforcement of a claim for compensation under this chapter it is presumed, in the absence of substantial evidence to the contrary, that
>
> (1) the claim comes within the provisions of this chapter. . . .

Under AS 23.30.120(a)(1), benefits sought by an injured worker are presumed to be compensable and the presumption is applicable to any claim for compensation under the Act. *Meek v. Unocal*

Corp., 914 P.2d 1276, 1279 (Alaska 1996). The presumption covers continuing medical care. *Municipality of Anchorage v. Carter*, 818 P.2d 661, 664-65 (Alaska 1991). The presumption's application involves a three-step analysis. To attach the presumption, an injured employee must first establish a "preliminary link" between his injury and the employment. *Tolbert v. Alascom, Inc.*, 973 P.2d 603, 610 (Alaska 1999). Once the presumption is attached, the employer must rebut the raised presumption with "substantial evidence." *Huit v. Ashwater Burns, Inc.*, 372 P.3d 904 (Alaska 2016). Where there is no competing cause, the standard is essentially unchanged from prior cases: the board is to evaluate the relative contribution of difference causes when assessing work-relatedness. *Id.* at 919. "Substantial evidence" is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Cowen v. Wal-Mart*, 93 P.3d 420, 424 (Alaska 2004) (*quoting Grove v. Alaska Constr. & Erectors*, 948 P.2d 454, 456 (Alaska 1997)). As the employer's evidence is not weighed against the employee's evidence, credibility is not examined at this stage. *Veco, Inc. v. Wolfer*, 693 P.2d 865, 869-70 (Alaska 1985).

If the employer's evidence is sufficient to rebut the presumption, it drops out and the employee must prove her case by a preponderance of the evidence. *Runstrom v. Alaska Native Medical Center*, AWCAC Decision No. 150 at 8 (March 25, 2011) (reversed on other grounds, *Huit v. Ashwater Burns, Inc.*, 372 P.3d 904 (Alaska 2016)). This means the employee must "induce a belief" in the fact-finders' minds that the facts being asserted are probably true. *Saxton v. Harris*, 395 P.2d 71, 72 (Alaska 1964). In the third step, evidence is weighed, inferences are drawn and credibility is considered. In *Lindhag v. State, Dept. of Natural Resources*, 123 P.3d 948 (Alaska 2005), the Alaska Supreme Court stated a claim can fail for "failure of proof."

> **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's credibility findings and weight accorded evidence are "binding for any review of the Board's factual findings." *Smith v. CSK Auto, Inc.*, 204 P.3d 1001, 1008 (Alaska 2009).

> **AS 23.30.155. Payment of compensation.** (a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled to it, without an award, except where liability to pay compensation is controverted by the employer. . .

For a controversion notice to be filed in good faith, the employer must possess sufficient evidence in support of the controversion that, if the claimant does not introduce evidence in opposition to the controversion, the board would find that the claimant is not entitled to benefits. *Harp v. ARCO*, 831 P.2d 352 (Alaska 1992).

> **AS 23.30.395. Definitions.** In this chapter,
> . . . .
>
> (24) "injury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection that arises naturally out of the employment or that naturally or unavoidably results from an accidental injury.
> . . .

ANALYSIS

1) Is Employee entitled to medical and related transportation expenses?

Employee claims future and ongoing medical care and related transportation expenses for regular screening and examination for asbestos-related respiratory illness. To be awarded these benefits, Employee must demonstrate either through a raised but unrebutted presumption or by a preponderance of the evidence, her work for Employer was the substantial cause of her need for medical treatment. AS 23.30.010(a); AS 23.30.095(a); AS 23.30.120(1); *Saxton*. Employer denies Employee is entitled to any future or prospective medical benefits, because it contends Employee has not shown an injury under the Act. This raises a factual dispute to which the presumption of compensability applies. *Meek*; *Carter*.

Employee raises the presumption with her own testimony that she was possibly exposed to harmful levels of asbestos in the workplace which may cause her to eventually develop asbestos-related illness. *Tolbert*. Employee also raises the presumption with Dr. Meinhardt's June 21, 2016 letter which states Employee was exposed to asbestos in the workplace, and recommends screening for asbestosis. *Id*. Because there are no competing causes alleged here, such as asbestos exposure at a different job with another employer, the negative evidence test is applied. *Huit.*

Employer must rebut the raised presumption with substantial evidence work is not the cause of Employee's need for medical treatment. *Id.*

Employer presented evidence in the form of air quality and industrial hygiene reports that the amount and type of asbestos exposure Employee experienced, if any, was likely insufficient to cause asbestosis. *Rogers & Babler*. In any event, the ceiling collapse leading to disturbance of the asbestos-containing insulation occurred long after Employee left her job at the 48th Avenue warehouse, supporting the conclusion Employee's exposure was minimal, if any. *Id*. In terms of medical opinions, Dr. Meinhardt testified he spent only about a minute writing the June 21, 2016 letter recommending regular screening for asbestosis and that he felt obligated to write the letter simply because Employee was his patient. Dr. Meinhardt is also a family practitioner, not a pulmonary specialist. His opinions therefore receive less weight. *Id*. Dr. Grimberg stated she did not find evidence of asbestos-related abnormalities in Employee's lungs when she evaluated her in March 2015, and the April 23, 2015 CT scan of Employee's chest showed no asbestos-related abnormalities. Dr. Klock's November 20, 2015 EME report found no evidence Employee was exposed to asbestos or that she had asbestos pulmonary disease, noting both spirometry and a CT scan of Employee's lungs were normal. Dr. Klock recommended routine screening every five years because of Employee's smoking history, but stated this recommendation was entirely unrelated to Employee's work for Employer. Dr. Klock also opined Employee's exposure to asbestos at the 48th Avenue warehouse was minimal, and highly unlikely to cause asbestos-related illness. Therefore, Employer successfully rebuts the presumption Employee's work for Employer was the substantial cause of her need for medical treatment. AS 23.30.120; AS 23.30.135; *Huit*; *Runstrom*; *Cowen.*

As discussed, Dr. Meinhardt's opinions regarding an asbestos-related injury are given little weight. Employee has not presented any other sufficient evidence of an injury as defined by the Act, and so she cannot prove her claim by a preponderance of the evidence, the third step of the presumption of compensability analysis. *Id*.; AS 23.30.395(24). Employee's claim for future and ongoing medical care and related transportation expenses for regular screening and examination for asbestos-related respiratory illness will be denied without prejudice for failure of proof. *Lindhag*; *Egemo*.

Importantly, the Act provides a more lenient statute of limitations for claims related to latent injuries. AS 23.30.105; *Collins*. So long as a claimant does not know, and in the exercise of reasonable diligence would not have come to know, the nature of her disability and its relation to her employment, the time limit for filing such claims is essentially unlimited. *Id*. Because this decision denies Employee's claims without prejudice, Employee may file a claim in the event she obtains medical evidence supporting a work-related diagnosis of asbestos-related illness. *Richard.*

2) Did Employer unfairly or frivolously controvert benefits?

For a controversion notice to be filed in good faith, the employer must possess sufficient evidence in support of the controversion that, if the claimant does not introduce evidence in opposition to the controversion, the Board would find the claimant is not entitled to benefits. *Harp.* This decision finds the weight of the evidence supports the conclusion that Employee's exposure to asbestos at the 48th Avenue warehouse was *de minimis*, if any. Additionally, the weight of the credible medical evidence shows Employee has not been diagnosed with any asbestos-related illness. Employer relied on this information in filing its controversion notices. Employer's controversions were not unfair or frivolous. AS 23.30.001; AS 23.30.135; AS 23.30.155; *Harp*; *Rogers & Babler*.

CONCLUSIONS OF LAW

1) Employee is not entitled to medical and related transportation expenses.
2) Employer did not unfairly or frivolously controvert benefits.

ORDER

1) Employee's March 21, 2016; March 22, 2016; May 27, 2016; and September 12, 2016 claims are denied without prejudice.
2) In the event Employee obtains medical evidence supporting a diagnosis of asbestos-related illness or other injury related to work for Employer, she may file a claim.

Dated in Anchorage, Alaska on February 9, 2017.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Matthew Slodowy, Designated Chair

/s/
Mark Talbert, Member

APPEAL PROCEDURES

This compensation order is a final decision. It becomes effective when filed in the office of the board unless proceedings to appeal it are instituted. Effective November 7, 2005 proceedings to appeal must be instituted in the Alaska Workers' Compensation Appeals Commission within 30 days of the filing of this decision and be brought by a party in interest against the boards and all other parties to the proceedings before the board. 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 due to the absence of any action on the reconsideration request, whichever is earlier. AS 23.30.127.

An appeal may be initiated by filing with the office of the Appeals Commission: 1) a signed notice of appeal specifying the board order appealed from and 2) a statement of the grounds upon which the appeal is taken. A cross-appeal may be initiated by filing with the office of the 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 ground upon which the cross-appeal is taken. AS 23.30.128.

RECONSIDERATION

A party may ask the board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accord 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 accord 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 Final Decision and Order in the matter of JOAN A. TREMONT, employee / claimant; v. STATE OF ALASKA, employer; STATE OF ALASKA, insurer / defendants; Case No. 201504871; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by First-Class U.S. Mail, postage prepaid, on February 10, 2017.

/s/

Elizabeth Pleitez, Office Assistant