ALASKA WORKERS' COMPENSATION BOARD

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

TAKAHARU OHYAMA, Employee, Claimant, v. ALASKA AIRLINES, INC., Employer, and ALASKA AIRLINES, INC., Insurer, Defendants.	)	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 201305889 AWCB Decision No. 14-0155 Filed with AWCB Anchorage, Alaska On December 3, 2014

Takaharu Ohyama's (Employee) June 13, 2014 and September 11, 2014 Petitions requesting a second independent medical evaluation (SIME) were heard on December 2, 2014, in Anchorage, Alaska, a date selected on November 4, 2014. Attorney Thomas Melaney appeared and represented Employee. Attorney Mark Conley appeared by telephone and represented Alaska Airlines, Inc. (Employer). There were no witnesses. As a preliminary matter, Employee also requested interim attorney's fees and costs if he prevailed on his SIME petitions. Employer objected, contending Employee was not entitled to interim attorney's fees on a collateral issue. The panel deliberated and sustained Employer's objection on a different ground. An oral order issued at hearing declined to address Employee's interim attorney's fee issue because he had not raised it at the controlling prehearing conference. This decision examines the oral order sustaining Employer's objection and determines Employee's SIME petitions on their merits. The record closed at the hearing's conclusion on December 2, 2014.

ISSUES

As a preliminary matter at hearing, Employee contended he was entitled to interim attorney's fees and costs if he succeeded on his SIME petitions. Employee contended there was no authority of which he was aware that stated he could not obtain interim attorney's fees and costs for succeeding on this preliminary SIME matter.

Employer objected to Employee's attorney's fee and cost request and contended no interim fees may be awarded to a successful claimant on a collateral matter. Employer contended Employee's attorney's fee and cost claim was not yet ripe and should not be heard.

1) Was the oral order declining to address Employee's request for interim attorney's fees should he succeed on his SIME petitions correct?

Employee contends there are significant medical disputes between his attending physician and Employer's medical evaluator (EME) in at least two areas. Consequently, he contends an SIME should be ordered.

Employer contends the medical opinion upon which Employee relies to support his SIME request was "thin." It contends there is not a significant medical dispute between Employee's attending physician and its EME. Employer contends SIMEs are expensive and it should not be required to pay for one on such limited evidence.

2) Should an SIME be ordered?

FINDINGS OF FACT

The following relevant facts and factual conclusions related to the pending SIME petitions are established by a preponderance of the evidence:

1) On November 19, 2013, Douglas Bald, M.D., saw Employee for an EME. Dr. Bald took a history, reviewed medical records, recorded Employee's chief complaints and past medical and socioeconomic history, and performed a physical examination. Dr. Bald diagnosed pre-existing osteoarthritis in Employee's right hip and a right buttock contusion associated with the May 10, 2013 work injury with Employer. In the report's "discussion" section, Dr. Bald stated Employee

incurred only a right buttock and hip area contusion as a result of his May 10, 2013 fall at work. He further stated: "Clearly, this injury event did not cause the underlying degenerative arthritis of that right hip." Dr. Bald stated Employee experienced some temporary symptomatic aggravation of his underlying arthritis as a direct result of the described injury. His medical care and treatment had been reasonable and appropriate and Employee was not yet medically stable and stationary. Dr. Bald further opined given Employee's current history and "relatively tolerable persistent symptoms with no physical evidence on examination of impingement," no surgical treatment at the time of Dr. Bald's examination was indicated. Dr. Bald recommended a brief period of continued conservative treatment and a corticosteroid injection to the right hip followed by a prescription-strength anti-inflammatory agent and hip-specific exercises for four to six weeks. In Dr. Bald's opinion, Employee had physical capabilities sufficient to work full-time in his regular job while he completed his treatment. In answering specific questions, Dr. Bald stated Employee's previously asymptomatic but pre-existing right hip arthritis was contributing to his current symptoms. However, Dr. Bald opined the May 10, 2013 work injury could be considered "the substantial cause" of his mild but persistent symptoms in the right hip including his need for a brief period of additional medical care and treatment. In response to the question of whether or not Dr. Bald agreed with the opinion of Michael Gevaert, M.D., which purportedly recommended orthopedic surgery, Dr. Bald stated: "Dr. Gevaert is not a surgeon and, in my opinion, surgical treatment at this time is not indicated" (Bald EME report, November 19, 2011).

2) On March 24, 2014, Employee filed a claim stating that on March 10, 2013, he had injured his right hand and right hip at work for Employer when his pant leg caught in a belt loader causing him to fall (Workers' Compensation Claim, March 20, 2014).

3) Employee claimed "possible" temporary total, temporary partial and permanent total disability; medical costs; interest; and attorney's fees and costs. Employee filed his claim because "[b]enefits have been denied" (*id*.).

4) Disability benefits following hip surgery can be considerable. Surgery is expensive (experience, observations, judgment).

5) On April 29, 2014, Employee's attorney sent Timothy Kavanaugh, M.D., a letter requesting a "check the line" type response. The letter stated, and Dr. Kavanaugh responded, as follows:

> Reviewing medical records of my client, T. J. Ohyama, it appears that you have recommended arthroscopic surgery or hip replacement as treatment options for

> Mr. Ohyama. Could you confirm whether these are viable treatment options for Mr. Ohyama?
>
> __X__ Yes
> _____ No
>
> Additionally, are you able to offer an opinion whether either of these treatments is necessitated by Mr. Ohyama's work injury?
>
> | Arthroscopic Surgery | Hip Replacement |
> | --- | --- |
> | _____ Yes | __X__ Yes |
> | _____ No | _____ No |

Dr. Kavanaugh signed and dated the bottom of this letter on May 8, 2014 (Melaney letter, April 29, 2014).

6) On June 16, 2014, Employee filed a petition requesting an SIME. He stated a dispute existed between Employee's attending physician and the EME physician. Employee also submitted an SIME form with referenced medical records attached. He identified the dispute as being between Dr. Kavanaugh, his attending physician, and Dr. Bald, the EME physician. Neither party signed the SIME form (Petition; SIME form, June 13, 2014).

7) On July 7, 2014, Employer filed its own SIME form with an accompanying letter. Employer's form stated there was no medical dispute, because if Employee's attending physician had an opinion about surgery and causation, he failed to express it (SIME form, July 6, 2014).

8) On September 8, 2014, Employee's attorney sent Dr. Kavanaugh another letter. The letter reiterated Dr. Kavanaugh's prior response and asked an additional question. The letter and Dr. Kavanaugh's updated responses are as follows:

> Reviewing medical records of my client, T. J. Ohyama, it appears that you have recommended arthroscopic surgery or hip replacement as treatment options for Mr. Ohyama. Could you confirm whether these are viable treatment options for Mr. Ohyama?
>
> __X__ Yes
> _____ No
>
> Additionally, are you able to offer an opinion whether either of these treatments is necessitated by Mr. Ohyama's work injury?

Arthroscopic Surgery	Hip Replacement
__X__ Yes	__X__ Yes
_____ No	_____ No

> Obviously, my questions omitted the most important aspect of your opinions. Therefore, could you please answer the following question:
>
> Is, in your opinion, the need for hip replacement necessitated by Mr. Ohyama's work injury?
>
> __X__ Yes
>
> _____ No
>
> _____ Uncertain

Dr. Kavanaugh signed and dated his response to this letter on September 9, 2014 (Melaney letter, September 8, 2014).

9) On September 12, 2014, Employee filed another SIME petition and attached SIME form. The petition was identical to the first, but the SIME form gave additional information and was signed by Employee's counsel (Petition; SIME form, September 11, 2014).

10) On November 4, 2014, the parties through counsel attended a prehearing conference. The prehearing conference summary issued at the conference's conclusion stated the only issue for hearing was: "Employee's 6/16/2014 & 9/12/2014 Petitions for Second Independent Medical Evaluation (SIME)." Though Employee's initial claim was recorded as including attorney's fees and costs, these were not identified as being associated with the SIME petition and were not included as an issue for the December 2, 2014 hearing, the hearing date to which the parties agreed at the November 4, 2014 prehearing conference (Prehearing Conference Summary, November 4, 2014).

11) Attorney's fees and costs for the SIME proceeding were not properly identified as an issue for the December 2, 2014 hearing (experience, judgment, observations).

12) On November 20, 2014, Employee filed an affidavit of attorney's fees and costs related solely to the SIME issue (Attorney's Affidavit for Support of Attorney's Fees and Costs Pursuant to AS 23.30.145, November 20, 2014).

13) At hearing on December 2, 2014, Employee's counsel stated he also requested attorney's fees and costs if he was successful in presenting his petitions for an SIME (Employee's counsel's statements at hearing).

14) Employer objected to the panel considering Employee's interim attorney's fees and costs. Employer contended Employee was not entitled to attorney's fees and costs even if he prevailed on the SIME petitions, because the SIME was a collateral issue and not a benefit subject to a fee and cost award (Employer's counsel statements at hearing).

15) After the panel deliberated, the designated chair issued an oral order sustaining Employer's objection on a ground different from that raised by Employer. The panel sustained the objection on the ground Employee had not properly raised attorney's fees and costs related to the SIME petition at the last prehearing conference. As interim attorney's fees and costs were not issues specifically identified for hearing on December 2, 2014, the panel declined to address it noting Employee had not waived his right to seek attorney's fees and costs related to the SIME, should he succeed on this preliminary issue (oral order).

16) At hearing, Employee contended there were distinct medical disputes between attending physician Dr. Kavanaugh and EME physician Bald. Employee contended the disputes included the need for medical treatment to address Employee's right hip and causation of the need for any such treatment. He noted Dr. Bald stated no surgery was required and implied even if it was, it would not be related to this injury. By contrast, Employee referenced Dr. Kavanaugh's opinions stating Employee needed either arthroscopic surgery or possibly hip replacement surgery. Employee noted Dr. Kavanaugh further expressly stated the referenced work injury necessitated the need for hip replacement surgery. Lastly, Employee argued he was unaware of any legal authority requiring a specific form for a doctor's opinions used to justify an SIME request (Employee's hearing arguments).

17) At hearing, Employer contended the letters upon which Employee relied for his SIME request was "thin" evidence. Employer further contended neither Kavanaugh letter stated the work injury was "the substantial cause" of Employee's need for surgery, and thus in Employer's view Dr. Kavanaugh's letters did not meet the legal causation standard. Employer further contended Dr. Bald's opinion was that any need for surgery resulted from the pre-existing, right hip arthritic changes noted on magnetic resonance imaging and not from the work injury. It further argued Dr. Gevaert agreed with Dr. Bald's opinions even though Dr. Gevaert is not a

surgeon. Employer contended, given all this, Employee's evidence does not "reach the bar" required to justify Employer spending a considerable sum on an SIME. Lastly, Employer argued if there is a medical dispute between Drs. Kavanaugh and Bald, it can be settled by referencing testimony from the two doctors at a merits hearing (Employer's hearing arguments).

18) The division provides parties to workers' compensation claims, and medical providers, with a Physician's Report form that can be used by the injured worker's attending physician. This form has a "check the box" format and asks the attending physician simple questions such as: "Is the injury work related?" The division's form also provides small spaces for a medical provider to handwrite recommended treatments or other comments applicable to the case. This form is provided to make process and procedure as summary and simple as possible, and to give medical providers a quick, efficient and predictable way to express their opinions. Physician's Reports have historically been used to justify a party's SIME request (experience, judgment).

19) The record contains significant medical disputes between attending physician Dr. Kavanaugh and EME Dr. Bald, both orthopedic surgeons. The medical disputes include "causation" and "the amount and efficacy of the continuance of or necessity of treatment." An SIME conducted by an impartial, orthopedic surgeon examiner is likely to assist the fact-finders in resolving Employee's pending claim for disability and medical benefits (experience, judgment, observations and inferences drawn from all the above factual findings).

PRINCIPLES OF LAW

> **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 . . . to ensure . . . quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to . . . employers. . . .

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 23.30.005. Alaska Workers' Compensation Board**. . . .
> . . .
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> (h) . . . Process and procedure under this chapter shall be as summary and simple as possible. . . .
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> **AS 23.30.095. Medical treatments, services, and examinations**. . . .
> . . .
>
> (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. The cost of an examination and medical report shall be paid by the employer. . . .

AS 23.30 095(k) is procedural, not substantive. *Deal v. Municipality of Anchorage*, AWCB Decision No. 97-0165 (July 23, 1997) at 3. Wide discretion exists under AS 23.30.095(k) 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 (AWCAC) in *Bah v. Trident Seafoods Corp.,* AWCAC Decision No. 073 (February 27, 2008), addressed authority to order an SIME under §095(k) and §110(g). *Bah* used the term "SIME" to apply to evaluations ordered under both sections. With regard to §095(k), the AWCAC cited *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.

Bah further stated in *dicta,* before ordering an SIME it is necessary for the board to find the medical dispute is significant or relevant to a pending claim or petition and the SIME would assist the board in resolving the dispute. *Bah v. Trident Seafoods Corp.,* AWCAC Decision No. 073 (February 27, 2008), at 4. *Bah* noted the purpose of ordering an SIME is to assist the board, and it 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 an 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, AWCB Decision No. 97-0165 (July 23, 1997), at 3.

> **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 in accordance with its regulations at any time after the first seven days of disability . . . and the board may hear and determine all questions in respect to the claim. . . .

The language "all questions" is limited to questions raised by the parties or by the agency upon notice duly given to parties. *Simon v. Alaska Wood Products*, 633 P.2d 252, 256 (Alaska 1981).

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

The board has broad statutory authority in conducting its hearings. *De Rosario v. Chenenga Lodging*, AWCB Decision No. 10-0123 (July 16, 2010). In *Fred Meyer, Inc. v. Updike*, AWCAC Decision No. 120 (October 29, 2009), the employee had waived her right to all benefits through settlement, with the exception of future medical care. A dispute arose about medical care and the board, on its own motion, ordered an SIME under AS 23.30.110(g). The commission held the board erred in ordering an SIME under §110(g) because the employee claimed only medical benefits rather than "compensation." Rather, *Updike* held §095(k) provided proper authority to order an SIME when medical benefits alone are claimed so long as there is a qualifying medical dispute. *Updike* applied the same three-pronged analysis set forth in *Bah* to SIME requests under either §095(k) or §110(g).

> **8 AAC 45.065. Prehearings**. (a) . . . . At the prehearing, the board or designee will exercise discretion in making determinations on
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> (1) identifying and simplifying the issues; . . .
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> . . .

> (c) After a prehearing the board or designee will issue a summary of the actions taken at the prehearing, the amendments to the pleadings, and the agreements made by the parties or their representatives. The summary will limit the issues for hearing to those that are in dispute at the end of the prehearing. Unless modified, the summary governs the issues and the course of the hearing. . . .
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> **8 AAC 45.070. Hearings**. . . .
> . . .
>
> (g) Except when the board or its designee determines that unusual and extenuating circumstances exist, the prehearing summary, if a prehearing was conducted and if applicable, governs the issues and the course of the hearing. . . .

ANALYSIS

1) Was the oral order declining to address Employee's request for interim attorney's fees should he succeed on his SIME petitions correct?

Prehearing conferences are held so parties can identify and simplify issues. 8 AAC 45.065(a)(1). Once a prehearing conference is completed, the designated chair issues a prehearing conference summary. Unless modified, the summary limits the issues for hearing and controls the hearing's course. 8 AAC 45.065(c); 8 AAC 45.070(g); *Simon*. This avoids "trial by ambush" and allows parties to properly prepare for hearing. Here, Employee did not raise interim attorney's fees and costs associated with the SIME petition as an issue for the December 2, 2014 hearing. At hearing, Employer objected to Employee's request for interim attorney's fees and costs. Though Employer objected on a different ground, its objection was well taken. Because Employee did not raise the interim attorney's fee and cost issue at the controlling prehearing conference, it is not proper for this decision and order to rule on it. AS 23.30.110(a); *Simon*. While Employee has not waived his right to seek attorney's fees and costs should he prevail on his SIME petitions, this issue will not be decided here and the oral order so stating was correct.

2) Should an SIME be ordered?

The parties disagree over whether there is a significant medical dispute between Dr. Kavanaugh the attending physician and Dr. Bald the EME sufficient to justify an SIME. AS 23.30.095(k). Though Dr. Kavanaugh's initial responses to Employee's questions could be construed as vague, he clarified his answers subsequently and expressed clearer opinions. Dr. Kavanaugh

recommended arthroscopic surgery or hip replacement surgery and expressly stated "the need for hip replacement" is "necessitated by" Employee's work injury with Employer. On the other hand, Dr. Bald stated at the time of his examination in November 2013, Employee did not need any surgery and implied if he did, the work injury would not be the substantial cause of the need for any surgery. Rather, any surgery would be related to Employee's pre-existing right hip arthritis. Employee contended this is enough to show a medical dispute.

By contrast, Employer argued Employee's evidence supporting his SIME request was "thin," and did not "reach the bar" required by law. Employer further contended Dr. Kavanaugh's opinions did not meet the legal burden of proof because they were not expressed in terms of "the substantial cause." Lastly, Employer argued Employee's "check the box" type evidence does not justify requiring Employer to pay for an expensive SIME.

In response, Employee argued he was unaware of any legal authority requiring a physician to present his or her opinion in a specific form to support an SIME request. Employee's position is persuasive. Employer's position places form over substance.

This is not a hearing on the merits of Employee's claim. *Deal*. His claim currently seeks "possible" temporary and permanent disability as well as medical benefits. To prevail on his claims at a merits hearing, Employee must present medical evidence demonstrating that, in relation to the relative contribution of different causes of any disability or need for medical treatment, his employment with Employer is "the substantial cause" of the disability or need for treatment. AS 23.30.010(a). In other words, the underlying medical issue is not whether Employee's work injury with Employer is the substantial cause of the degenerative arthritis "condition" in his right hip. The ultimate issue to be decided at a merits hearing will be whether the employment, when compared to other causes, is the substantial cause of any disability or the need for recommended surgical treatment.

However, this is a preliminary, procedural hearing on Employee's two petitions requesting an SIME. *Deal*. The SIME statute does not require a party to demonstrate a medical dispute to any particular degree of certainty or to meet a legal standard. The statute simply requires "a medical

dispute" regarding several enumerated issues between "the employee's attending physician and the employer's independent medical evaluation." AS 23.30.095(k). Therefore, Dr. Kavanaugh's failure to state the work injury is the substantial cause of his recommended surgical procedures, and any resulting disability, is not fatal to Employee's SIME request. *De Rosario*.

Employer's objection to the form in which Dr. Kavanaugh expressed his opinions is not well taken. The division provides a Physician's Report form that can be used by a medical provider to offer succinct opinions. This form uses short questions and provides associated blocks which a physician can use to check off and indicate either a "yes" or "no" answer. Questions include whether or not the physician believes the injury is "work-related." The form also provides space for a physician to hand-write a brief description of recommended medical treatment. This form is provided to simplify processes and procedures and to help medical providers give opinions in a quick, efficient and predictable way at a reasonable cost to all parties. AS 23.30.001(1); AS 23.30.005(h). Attorney Melaney's letters to Dr. Kavanaugh are analogous to the division's form and serve a similar purpose. Physician's Reports have historically been used to justify a party's position in an SIME dispute. There is no reason why a similar letter from Dr. Kavanaugh should not also suffice for this purpose. *De Rosario*. Each party participating in an SIME has an opportunity to submit questions to the SIME physician. The designee preparing the SIME letters will also provide standard questions to the SIME physician. The appropriate "the substantial cause" language is included in these questions. Therefore, the form in which Dr. Kavanaugh presented his opinions is not an impediment to this decision ordering an SIME.

Dr. Kavanaugh's opinions when compared to Dr. Bald's opinions clearly delineate at least two medical disputes. Dr. Kavanaugh says Employee needs either arthroscopic or hip replacement surgery, while Dr. Bald says he does not. This is a medical dispute concerning "the amount and efficacy of the continuance of or necessity of treatment." AS 23.30.095(k). Dr. Kavanaugh also stated Employee's work injury with Employer "necessitated" the need for hip replacement surgery. Dr. Bald, on the other hand, implies any remaining treatment including surgery to address Employee's right hip would not be work-related, but rather would be related to Employee's pre-existing right hip arthritis. Surgery and any disability resulting from it are significant issues. Surgery is expensive. Time loss benefits can be considerable while a person

recovers from surgery. *Rodgers & Babler*. Employee does not seek just medical care; he also claims possible disability, both potentially significant benefits. *Updike*. Therefore, these medical disputes are significant as well. *Bah*.

Lastly, given the significant medical disputes between two orthopedic surgeons, as to both causation for any medical care and the need for medical care, it would assist the fact-finder to have another, impartial orthopedic surgeon way in on these medical disputes. AS 23.30.095(k). An impartial opinion from a third surgeon would offset any possible bias from either physician. As has been noted, surgery is expensive and disability can be significant. Therefore, another opinion by a qualified orthopedic surgeon will help the fact-finder's establish facts and best ascertain all parties' rights. AS 23.30.135. Accordingly, Employee's petitions for an SIME will be granted and an orthopedic surgeon will perform the SIME.

CONCLUSIONS OF LAW

1) The oral order declining to address Employee's request for interim attorney's fees should he succeed on his SIME petitions was correct.
2) An SIME will be ordered.

ORDER

1) Employee's request for interim attorney's fees and costs associated with his SIME petitions will not be decided at this time.
2) Employee's June 13, 2014 and September 11, 2014 petitions for an SIME are granted.
3) The parties are directed to attend a prehearing conference at which the designee will set forth process and procedures for an SIME.
4) The SIME will be performed by an orthopedic surgeon selected in accordance with the Alaska Workers' Compensation Act, applicable regulations, and normal processes and procedures.

Dated in Anchorage, Alaska on December 3, 2014.

ALASKA WORKERS' COMPENSATION BOARD

_____
William Soule, Designated Chair

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Dave Kester, Member

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Patricia Vollendorf, 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 TAKAHARU OHYAMA, employee / claimant v. ALASKA AIRLINES, INC., employer / self-insurer / defendants; Case No. 201305889; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties on December 3, 2014.

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Elizabeth Pleitez, Office Assistant