ALASKA WORKERS' COMPENSATION BOARD

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

REX HENSON, Employee, Claimant, v. APICDA JOINT VENTURES, INC., Employer, and LIBERTY NORTHWEST INSURANCE CORPORATION, Insurer, Defendants.	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 201508753 AWCB Decision No. 17-0058 Filed with AWCB Anchorage, Alaska on May 22, 2017

Rex Henson's (Employee) December 9, 2016 petition for modification of the March 16, 2016 Reemployment Benefits Administrator Designee's (RBA designee) eligibility determination was to be heard in Anchorage, Alaska on May 16, 2017, a date selected on March 8, 2017. Attorney Chris Beltzer appeared and represented Rex Henson (Employee). Attorney Stacy Stone appeared and represented APICDA Joint Ventures, Inc. and Liberty Northwest Insurance Corporation (Employer). Employee appeared. Two members of a panel constitute a quorum; however, the designated chair was without a panel member from labor or industry. Without a quorum, the parties stipulated to continue the matter and to proceed to a written record hearing. The record closed at the hearing's conclusion on May 16, 2017.

ISSUE

Was the oral order continuing the May 16, 2017 hearing correct?

FINDINGS OF FACT

1) On May 9, 2015, Employee tripped in a freezer container in the course of his employment and injured his leg and back. (Employee's Report of Injury, June 1, 2015.)

2) On October 1, 2015, an RBA technician assigned rehabilitation specialist Alizon White to evaluate Employee for reemployment benefits eligibility. (Referral Letter, October 1, 2015.)

3) On October 13, 2015, rehabilitation specialist White reported she spoke with Employee on October 5, 2015 and communicated with him via email to obtain details regarding his 10-year work history, which she determined was as follows:

DOT Title	Job Title	Strength Level
Cook (Job at Injury) (#315.361-010)	Cook	Medium
Kitchen Helper (Job at Injury)	Cook	Medium
Chef (#313.131-014)	Chef	Medium
Chef (#313.131-014)	Head Cook	Light
Chef (#313.131-014)	Owner/Operator	Light Medium
Cook (#315.361-010)	Head Cook	Medium

4) On February 9, 2016, Jared Kirkham, M.D., responded to White's eligibility evaluation inquiries. He said Employee "will need completion of work hardening program and repeat FCE to determine work capabilities." He predicted Employee's work injury caused Employee to have a permanent partial impairment (PPI) greater than zero. Dr. Kirkham reviewed the following job descriptions and determined Employee had the physical capacities to perform the positions' physical demands:

Job Title	Strength Level	Will Employee have permanent physical capacities equal to or greater than physical demands of job?
Cook (Job at Injury)	Medium	YES
Kitchen Helper (Job at Injury)	Medium	YES
Chef	Light	YES

(Responses to White's Inquiries, Dr. Kirkham, February 9, 2016.)

5) On February 29, 2016, White recommended the RBA designee find Employee not eligible for reemployment benefits. (Reemployment Eligibility Addendum Report, White, February 29, 2017.)

6) On March 8, 2016, Employee contacted the RBA technician to dispute the "Cher" job description, which classified the physical demands as "light." Employee asserted a chef on the slope is much more like a "heavy/medium job." "He will put in writing to all parties so it can be included in the final decision." (ICERS database, Reemployment, Communications, Phone Call, March 8, 2016.)

7) On March 10, 2016, Employee provided a "Job Task Description" for Position #10 Night Cook Helper, a "Job Physical demand Validation Questionnaire" for Lead Cook / 2nd Cook / Sous Chef, a "Job Task Description" for Position #10 Kitchen Cook Helper Spike, and "Job Physical demand Validation Questionnaire" for Baker. (Job Task Description, Position #10 Night Cook Helper; Job Physical demand Validation Questionnaire for Lead Cook / 2nd Cook / Sous Chef, Ice Services, Inc.; Job Task Description for Position #10 Kitchen Cook Helper Spike; Job Physical demand Validation Questionnaire for Baker, Ice Services, Inc.)

8) On March 14, 2016, the RBA designee determined Employee is not eligible for reemployment benefits based on Dr. Kirkham's predictions Employee would be able to perform the physical demands of the job he performed when he was injured, Chef and Kitchen Helper. The RBA designee also relied upon Dr. Kirkham's prediction Employee will have permanent physical capacities to perform the demands the DOT/SCODRDOT job description for chef, which rehabilitation specialist White identified as a job Employee held during the 10-year period prior to his injury. (Eligibility Determination, March 14, 2016.)

9) On April 20, 2016, the follow-up functional capacity evaluation Dr. Kirkham ordered showed Employee "performed at a level consistent with sedentary physical demand level."

Employee was unable to stand for prolonged times and required rest breaks when walking more than 45 feet. Evaluator J. Nicole Johnson, OTD/R/L concluded:

> The client performed at a sedentary functional level as per physical demand guidelines. He demonstrated increased pain with weight bearing and MMT testing of the LLE and also demonstrated signs which could indicate nerve compression during testing of the LLE. This would likely hinder his ability to perform work activities at a heavier physical demand level at this time. He demonstrated difficulty with prolonged sitting and required the ability to weight shift and change positions frequently. He also demonstrated difficulty with prolonged standing and walking and required the ability to sit in between standing tests. The client limped during walking activities and demonstrated signs of pain with walking greater than 45 feet. Client was unable to crouch, stoop and required upper body support to stand from kneeling. Client required increased time with bi-manual handling and fingering and reported discomfort with prolonged participation. Client may be able to perform a higher level following further intervention and with appropriate modification, such as the ability to change positions frequently and take frequent rest breaks during walking and standing activities.

(Functional Abilities Determination Report, J. Nicole Johnson, OTD/R/L, April 20, 2016.)

10) On April 26, 2016, Dr. Kirkham rated Employee with a two percent whole person impairment "as a result of his work injury on May 9, 2015 resulting in chronic thoracic and lumbar sprain/strain-type injuries without neurological impairment." (Permanent Partial Impairment Rating, Dr. Kirkham, April 26, 2016.)

11) On May 13, 2016, Employee petitioned for reconsideration / modification for the RBA designee's determination. The division rejected Employee's petition on June 14, 2016, because it lacked proof of service. (Petition, Undated; Prehearing Conference Summary, June 14, 2016.)

12) On June 24, 2016, Employee petitioned for modification of the RBA designee's determination. (Petition, June 24, 2016.)

13) On July 21, 2016, Employer's claims administrator Alessandro Pia and Employee stipulated to provide the rehabilitation specialist with all Employee's medical records since White's February 29, 2016 ineligibility recommendation. They further stipulated to ask White to provide an updated recommendation to the RBA designee based upon the new medical records. (Prehearing Conference Summary, July 21, 2016.)

14) On August 17, 2016, Pia gave White Employee's April 20, 2016 functional capacities evaluation and asked, "Would you revisit your Rehabilitation Benefits Eligibility Evaluation results with this information to see if it changes the outcome in any way?" White replied,

"physical therapists are not physicians, so a change in my recommendation regarding the evaluation would require the treating physician or a physician to reevaluate the job description(s) in light of the FCE and render an opinion." (Email String, between Pia and White, August 17, 2016 to August 24, 2016.)

15) On September 22, 2016, Larry Levine, M.D., reviewed "occupational requirements" and said:

> Most of these require more force and I thought he would be able to do. I've reviewed that in my guess, he would probably be a perform task at a lighter level. He did have a prior physical capacities evaluation. 20 pounds on occasional does not seem like a big stretch, but certainly may be possible. Rex is not feeling like he could get to 20 pounds. Even on occasional basis. He feels like he is more at about a 10-pound limit. I'm going to leave this up to him. It is obvious we are not seeing eye to eye, in relation to his ongoing care.
>
> He is dismissed from my care at this point in time.

(Chart Note, Dr. Levine, September 22, 2016.)

16) On September 27, 2016, White learned the Reemployment Benefits Section had no knowledge of Employee's April 20, 2016 FCE or April 26, 2016 PPI rating and, was told by the Reemployment Benefits Section that, in the future, White "should wait until directed by their office to reopen an eligibility evaluation case." (Progress Report #1: Vocational Case Management, White, September 27, 2016.)

17) On October 7, 2016, White notified Pia that Dr. Levine had discharged Employee from Dr. Levine's care. White provided Dr. Levine's September 22, 2016 final chart note and said if Dr. Levine did not respond to the job descriptions, she would close her file. White recommended the parties contact the RBA designee. (Email from White to Pia, October 7, 2016.)

18) On October 28, 2016, rehabilitation specialist White stated, "since I was unable to get any additional information from Dr. Levine about predicted permanent physical capacities, and I've received no word from the Reemployment Benefits Section, I am closing my file. (Closure Report: Vocational Case Management, Alizon White, October 28, 2016.)

19) On December 9, 2016, Employee petitioned for reconsideration / modification of the RBA designee's eligibility determination. (Petition, Undated.)

20) On January 3, 2017, Dr. Kirkham, recommended Employee "find a form of work that he is able to do in a sedentary duty capacity." Dr. Kirkham noted, "according to the patient's recent job descriptions, there is a mention that he previously worked as a chef. The patient reports that he has never worked as a chef and would like this adjusted in his job descriptions. Regardless, chef is a light-duty position and not a sedentary duty position, so he would not be able to return to work as a chef." (Chart Note, Dr. Kirkham, January 3, 2017.)

21) On February 17, 2017, Employer opposed Employee's petition for modification contending there was no mistake of fact, Employee's condition did not change, and there was no newly discovered evidence to support modification of the finding Employee is ineligible for reemployment benefits. (Answer, February 16, 2017.)

22) On March 8, 2017, a hearing on Employee's petitions was set for May 16, 2017. (Prehearing Conference Summary, March 9, 2017.)

23) Employee contends the RBA designee's March 14, 2016 determination finding him ineligible for retraining benefits should be modified because Dr. Kirkham's February 9, 2016 prediction Employee would have the permanent physical capacities to perform the physical demands of a job within Employee's 10-year work history, Chef, was conditioned on Employee's improvement and a follow-up FCE. The April 20, 2016 FCE revealed Employee has the permanent physical capacities to perform sedentary level work and none of the jobs in his 10-year work history was sedentary. Employee also contends "Chef" was not an appropriate job title under the DOT/SCODRDOT for any jobs he held before or after his work injury. Employee contends after the RBA designee's decision and Employee's appeal, the parties stipulated to have the rehabilitation specialist update the eligibility recommendation based upon new medical evidence. He contends the rehabilitation specialist unilaterally stopped the evaluation prior to completion. He contends Employer should have reinstated AS 23.30.041(k) stipend benefits upon the parties' stipulation. (Employee's Hearing Brief, May 11, 2017.)

24) Employer contends the RBA designee properly determined Employee is not eligible for reemployment benefits following rehabilitation specialist's eligibility evaluation. Dr. Kirkham reviewed the DOT/SCODRDOT job descriptions for Cook and Kitchen Helper, both of which describe Employee's job of injury. Employer contends Dr. Kirkham opined Employee was capable of returning to either job following his treatment course and work hardening; and Dr. Kirkham found Employee capable of returning to another occupation, he held in the previous 10

years, chef. Employer contends because Employee has the permanent physical capacity to perform his job of injury, and a position he held in the previous 10 years, the RBA designee properly found him not eligible for reemployment benefits. (Employer's Hearing Brief, May 11, 2017.)

25) On May 16, 2017, workers' compensation board member David Ellis unexpectedly did not appear for hearing. A quorum did not exist and the hearing was continued. The parties stipulated to a written record hearing. The designated chair advised the parties to submit supplemental briefing on June 6, 2017. The parties agreed to depose Employee on June 16, 2017. The parties do not agree "Chef" is a correct job title for Employee's past work. (Record.)

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 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. . . .

A major purpose of the Alaska Workers' Compensation Act (Act) is to provide a simple, speedy remedy for injured workers. *Hewing v. Peter Kiewit & Sons*, 586 P.2d 182 (November 9, 1978).

> **AS 23.30.005. Alaska Workers' Compensation Board.**
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> (f) Two members of a panel constitute a quorum for hearing claims and the actions taken by a quorum of a panel is considered the action of the full board.
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> (h) The department shall adopt rules . . . and shall adopt regulations to carry out the provisions of this chapter. . . . Process and procedure under this chapter shall be as summary and simple as possible.

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 23.30.041. Rehabilitation and reemployment of injured workers. . . .
. . . .

(d) Within 30 days after the referral by the administrator, the rehabilitation specialist shall perform the eligibility evaluation and issue a report of findings. The administrator may grant up to an additional 30 days for performance of the eligibility evaluation upon notification of unusual and extenuating circumstances and the rehabilitation specialist's request. Within 14 days after receipt of the report from the rehabilitation specialist, the administrator shall notify the parties of the employee's eligibility for reemployment preparation benefits. Within 10 days after the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The hearing shall be held within 30 days after it is requested. The board shall uphold the decision of the administrator except for abuse of discretion on the administrator's part.
. . . .

(e) An employee shall be eligible for reemployment benefits under this section upon the employee's written request and by having a physician predict that employee will have permanent physical capacities that are less than the physician demands of the employee's job as described in the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" for

(1) The employee's job at the time of injury; or

(2) Other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to the 1993 edition of the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles."

AS 23.30.130. Modification of awards. (a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of compensation benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case under the procedure prescribed in respect of claims in AS 23.30.110. Under AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases or decreases the compensation, or award compensation.

The Alaska Supreme Court discussed AS 23.30.130(a) in *Interior Paint Company v. Rodgers*, 522 P.2d 161, 168 (Alaska 1974), *quoting from O'Keeffe v. Aerojet-General Shipyards, Inc*., 404 U.S. 254, 256 (1971):

> The plain import of this amendment [adding 'mistake in a determination of fact' as a ground for review] was to vest a deputy commissioner with broad discretion to correct mistakes of fact whether demonstrated by wholly new evidence, cumulative evidence, or merely further reflection on the evidence initially submitted.

In regard to rehabilitation and reemployment issues, the court in *Griffiths v. Andy's Body & Frame, Inc.*, 165 P.3d 619 (Alaska 2007) stated:

> Alaska Statute 23.30.130(a) allows the workers' compensation board to modify a previous decision based on changed conditions or a mistake of a fact. The board may modify the prior decision on its own initiative or upon application by an interested party so long as the board's review process begins within one year of the last payment of compensation or the rejection of the claim.

In *Hodges v. Alaska Constructors*, 957 P2d 957 (Alaska 1998), the Alaska Supreme Court held a petition for modification under AS 23.30.130(a) is timely, and the board may consider modification, if the petitioner files the request within one year of the last payment of compensation, or of the filing of the challenged decision and order.

AS 23.30.130(a) has been applied to modify determinations that found employees eligible for reemployment benefits. *See e.g., Imhof v. Eagle River Refuse*, AWCB Dec. No. 94-0330 (December 29, 1994); *Philley v. AIS, Inc.*, AWCB Dec. No. 03-0228 (September 19, 2003); *Abdullah v. Westward Seafoods, Inc.*, AWCB Dec. No. 10-0158 (September 21, 2010). Likewise, the statute has been applied to modify determinations that initially found employees not eligible for reemployment benefits. The RBA designee's determinations were reversed and remanded, employees were found eligible for reemployment benefits, and the RBA ordered to issue the employee an eligibility notification. *See e.g., Martin v. Silver Bay Logging, Inc.*, AWCB Dec. No. 03-0231 (September 25, 2003); *Smart v. Carr Gottstein Foods Co.*, AWCB Case No. 03-0270 (November 13, 2003).

> **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. Chenega Lodging,* AWCB Decision No. 10-0123 (July 16, 2010).

> **8 AAC 45.050. Pleadings.** . . .
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> (f) **Stipulations.**
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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. . . .

> **8 AAC 45.070. Hearings**. (a) Hearings will be held at the time and place fixed by notice served by the board under 8 AAC 45.060(e). A hearing may be adjourned, postponed, or continued from time to time and from place to place at the discretion of the board or its designee, and in accordance with this chapter.

> **8 AAC 45.071. Hearing officer as a commissioner's designee.** (a) a hearing officer shall serve as a commissioner's designee to hear and decide procedural and stipulated matters without a panel. An action of the hearing officer under this section is an action of the full board.
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> (b) For purposes of this section,
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> (2) A stipulated matter is limited to
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> (B) a continuance;
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> (D) a stipulation under 8 AAC 45.050(f).

> **8 AAC 45.074. Continuances and Cancellations.**
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> (b) Continuances or cancellations are not favored by the board and will not be routinely granted. A hearing may be continued or cancelled only for good cause and in accordance with this section. For purposes of this subsection,
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> (1) good cause exists only when
> . . . .
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> (H) the board is not able to complete the hearing on the scheduled hearing date due to the length of time required to hear the case or other cases scheduled on that same day, the lack of a quorum of the board, or malfunctioning of equipment required for recording the hearing or taking evidence;
> . . . .
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> **8 AAC 45.525. Reemployment benefits eligibility evaluations.**
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> (b) When interviewing the employee the rehabilitation specialist whose name appears on the referral letter shall obtain descriptions of the tasks and duties for other jobs the employee held or for which the employee received training within 10 years before the injury, and any jobs held after the injury. The rehabilitation specialist shall
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> (1) exercise due diligence to verify the employee's jobs in the 10 years before the injury, and any jobs held after the injury;
>
> (2) Review the appropriate volume [of the *Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles*] and select the most appropriate job title or titles that describe the jobs held and training received. . . .

Vandenberg v. Alaska Department of Health & Social Services, 371 P.3d 602 (Alaska 2016), considered how a job description is selected, and addressed whether the RBA and the board can disregard either the actual physical requirements of a position or non-physical aspects, such as educational or vocational prerequisites, identified in the *Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles* (SCO), when selecting the most appropriate job description or description. *Vandenberg* emphasized 8 AAC 45.525(b) requires a rehabilitation specialist to gather information about both the job's "tasks" and the "duties" before consulting the relevant edition of the SCO to select an appropriate job description and stated:

> After the rehabilitation specialist obtains the necessary information about both tasks and duties, the regulation instructs the specialist to use the correct edition of the SCO to "select the most appropriate job title or titles that describe the jobs held and training received." The SCO classifies jobs using a number of different factors, one of which is strength and one of which encompasses education and vocational training. Requiring use of the SCO to identify job descriptions permits a rehabilitation specialist to take into account the strength demands of a worker's job when deciding which position is "most appropriate" because strength is an important physical factor used to classify jobs in that reference's matrix. Similarly, vocational preparation is a factor the SCO uses to classify positions, so in deciding which positions best match the jobs held by the employee, a rehabilitation specialist could justify her selection in part based on this factor. (Footnotes omitted.)

Id. at 608-9. *Vandenberg* concluded, "neither the statute nor its implementing regulations prohibit a rehabilitation specialist from considering education or vocational requirements or physical-strength classifications when selecting the most appropriate job title or titles from the SCO." *Id.* at 609.

ANALYSIS

Was the oral order continuing the May 16, 2017 hearing correct?

Two members of a hearing panel constitute a quorum. AS 23.30.005(f). Continuances are not favored and a hearing may only be continued for good cause. 8 AAC 45.074(b). When the panel lacks a quorum, good cause exists to continue a hearing. 8 AAC 45.074(b)(1)(H). The parties set a hearing in this matter for May 16, 2017; however, board member David Ellis was unexpectedly unavailable. The parties stipulated to continue the hearing and resume it as a written record hearing. 8 AAC 45.050(f); 8 AAC 45.070. They also stipulated to depose Employee on June 16, 2017. 8 AAC 45.050. With only one panel member, a quorum was lacking and the oral order continuing the hearing was correct. 8 AAC 45.005(f). A hearing officer will issue this decision and order as the commissioner's designee. 8 AAC 45.071(b)(2)(B).

The chair directed the parties to submit supplemental briefing on June 6, 2017; however, because this matter will be heard on the written record, this deadline may not provide a simple, speedy remedy. AS 23.30.001; *Hewing.* To assure the parties' arguments and legal analyses are based upon a complete record, supplemental briefing shall be delayed until June 30, 2017, after

Employee's deposition is taken and transcribed. AS 23.30.135; *De Rosario*. Employer will be ordered to file a copy of the deposition transcript five days prior to the briefing deadline. *Id.*

The parties' current hearing briefs contain scant citations to precedential cases to support their respective arguments. *Rogers & Babler*. In supplemental briefing, the parties shall provide the legal basis for their contentions, including Alaska Supreme Court, Alaska Workers' Compensation Appeals Commission, or Alaska Workers' Compensation Board decisions. *Id.* Parties shall address the basis or lack thereof for modification under AS 23.30.130 and if *Martin* and *Smart* are controlling or distinguishable.

The parties shall also address the rehabilitation specialist's selection of the DOT title "Chef." The parties shall explain why the DOT lists "Chef" both a medium and a light duty job. Further, the parties should clarify why White's October 13, 2015 report classifies "Head Cook" as both "Cook" and "Chef," and why those differences exist. *Id.* The parties shall provide arguments and analysis regarding whether the rehabilitation specialist complied with AS 23.30.041 and 8 AAC 45.525(b) when the DOT title "Chef" was selected, and why *Vandenberg* is or is not applicable to this matter.

CONCLUSION OF LAW

The oral order continuing the May 16, 2017 hearing was correct.

ORDER

1) The May 16, 2017 hearing shall be on the written record.
2) Employer shall file Employee's deposition transcript promptly, and no later than five days before the briefing deadline.
3) The deadline for supplemental briefing is June 23, 2017.
4) The parties will be notified of the new panel member assigned to the case prior to deliberations.

Dated in Anchorage, Alaska on May 22, 2017.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Janel Wright, Designated Chair

PETITION FOR REVIEW

A party may seek review of an interlocutory 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 Rex Henson, employee / petitioner; v. APICDA Joint Ventures, Inc., employer; Liberty Northwest Insurance Corp., insurer / respondents; Case No. 201508753; 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 May 22, 2017.

/s/
Nenita Farmer, Office Assistant