

ALASKA WORKERS' COMPENSATION BOARD



P.O. Box 115512

Juneau, Alaska 99811-5512

ROBERT A. WHILEY,)
Employee,)
Claimant,) FINAL DECISION AND ORDER
v.)
ALASCORP INC.,) AWCB Case No. 201105698
Employer,) AWCB Decision No. 16-0064
and) Filed with AWCB Fairbanks, Alaska
LIBERTY NORTHWEST INSURANCE) on July 30, 2016.
CO.,)
Insurer,)
Defendants.)

Alascorp, Inc. and Liberty Mutual Insurance Co.'s (Employer) March 18, 2016 petition to dismiss Robert Whiley's (Employee) May 5, 2011, January 17, 2012, and July 31, 2012 workers' compensation claims was heard on June 30, 2016 in Fairbanks, Alaska. The hearing date was selected on May 4, 2016. Employee appeared telephonically and testified. Employee's daughter, Kenosha Williams (Ms. Williams), acted as his non-attorney representative. Attorney Jeffrey Holloway appeared telephonically and represented Employer. The record closed at the hearing's conclusion on June 30, 2016.

ISSUE

Employer contends it would prejudice Employer to allow Employee to pursue 3-4 year old stale claims. Employer contends the two-year statute of limitations under AS 23.30.110(c) is mandatory, not discretionary, and Employee did not even substantially comply with the requirement to request a hearing within the statutory timeline. Employer contends Employee's claims should be dismissed.

Employee contends he was unaware of the two-year requirement to request a hearing. He contends he relied on his daughter, Ms. Williams, as power of attorney and as a non-attorney representative to handle his case. Ms. Williams contends that her and her father's address had changed several times and that she had not received certain documents from the Board and was therefore unaware of the statutory deadline.

Should Employee's May 5, 2011, January 17, 2012, and July 31, 2012 claims be dismissed under AS 23.30.110(c)?

FINDINGS OF FACT

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

- 1) On April 26, 2011, Employee injured his left ankle when he was "climbing down to secure a support beam and twisted [his] ankle on a floor plate (2x4)." (Report of Occupational Injury or Illness, April 27, 2011).
- 2) On May 5, 2011, Employee filed a workers' compensation claim, seeking temporary total disability (TTD) benefits, temporary partial disability (TPD) benefits, permanent partial impairment (PPI) benefits, medical costs, and transportation costs. (WCC, May 5, 2011).
- 3) On May 27, 2011, Employer filed a controversion notice, denying additional benefits were due. (Controversion Notice, May 27, 2011).

- 4) The May 27, 2011 Controversion Notice set forth the following notice regarding time limits:

When must you request a hearing (Affidavit of Readiness for Hearing form)? If the insurer/employer filed this controversion notice after you filed a claim, you must request a hearing before the AWCB within two years after the date of this controversion notice. You will lose your right to the benefits denied on the front of this form if you do not request a hearing within two years. (Controversion Notice, May 27, 2011).

- 5) On June 22, 2011 the parties attended a prehearing conference (PHC). The PHC summary states in part:

Attorney List: The board designee will provide Employee with a list of attorneys with this prehearing conference summary. Should Employee wish to retain an attorney and the attorney agrees to take Employee's case, Alaska workers' compensation statutes and regulations provide for the payment of Employee's attorney if Employee prevails at hearing. If Employee does not prevail at hearing, the attorney is precluded by regulation from charging more than \$300 total for

representation of Employee. Most attorneys on the board's list do not charge an initial consultation fee or waive the fee if employees are unable to pay.

Employee is reminded, if a controversion notice is served and filed after the date of filing of Employee's workers' compensation claim, Employee must serve an affidavit, in accordance with 8 ACC 45.070, requesting a hearing within two years of the controversion to avoid possible dismissal of the employee's claim. AS 23.30.110(c) provides: "If the employer controverts a claim on a board-prescribed controversion notice and the employee does not request a hearing within two years following the filing of the controversion notice, the claim is denied."

The board designee provided Employee with this prehearing conference summary a copy of the pamphlet, Workers Compensation and You, which is also available at the website <http://www.labor.state.ak.us/wc>.

The board designee encourages the parties to seek the assistance of a Workers' Compensation Technician at (907) 451-2889 (Fairbanks), (907) 269-4980 (Anchorage) or toll free at (877) 783-4980, if a party has any questions pertaining to this case. (PHC Summary, June 22, 2011).

- 6) On January 17, 2012, Employee filed a second claim, seeking TTD, PTD, and PPI benefits. (WCC, January 17, 2012).
- 7) On February 6, 2012, Employer filed a controversion notice, denying additional benefits sought in Employee's second claim. The controversion notice provided the same statutory language notifying Employee of his timeline to request a hearing. (Controversion Notice, February 6, 2012).
- 8) On February 21, 2012, the parties attended a PHC. The PHC summary included the same language concerning Employee's obligations under AS 23.30.110(c) as in the June 22, 2011 PHC summary. (PHC Summary, February 21, 2012).
- 9) On April 5, 2012, a board staff member noted Employee's address had changed to 1546 Turner ST Apt #3 Fairbanks, AK 99701. (Record).
- 10) On July 31, 2012, Employee filed a third workers' compensation claim seeking TTD, TPD, PTD, PPI, medical costs, and transportation costs. (WCC, July 31, 2012).

ROBERT A. WHILEY v. ALASCORP INC.

- 11) On August 22, 2012, Employer filed a controversion notice in response to Employee's third claim. The controversion notice provided the same statutory language notifying Employee of his timeline to request a hearing. (Controversion Notice, August 22, 2012).
- 12) On August 23, 2012, the parties attended a PHC. The PHC summary again included Employee's timeline under AS 23.30.110(c). (PHC Summary, August 23, 2012).
- 13) On May 14, 2013, the parties attended a PHC. The PHC summary again included Employee's timeline under AS 23.30.110(c). (PHC Summary, May 14, 2013).
- 14) On May 21, 2013, a board staff member e-mailed an attorney list and ARH Form to Employee. (Record).
- 15) On February 28, 2014, Ms. Williams filed a non-attorney representative entry of appearance. (Record).
- 16) On April 10, 2014, a workers' compensation technician sent Ms. Williams the following e-mail:

1. Attached to this email is the release form you will need to fill out to request a copy of your father's file, AWCB# 201105698(currently active), 201105643(no current activity), & 200711607(no current activity). These requests can take up to 14 days once we receive the request, so the sooner you submit the form, the better. Since you are a party to the case, you don't need to have your father's signature on the form.

2. I attached a copy of the "Entry of Appearance" form that you submitted, so you can forward it to the other parties of your father's case, if need be.

3. I also attached a claim form, attorney list, and packet about workers' compensation for your convenience. We talked about the claim form a little on the phone, and you can fill this out to ask for continued medical treatment/get a leg brace.

4. If you feel you are ready for the board to hold a formal hearing regarding any of the previous claims filed by your dad, or any of the claims are reaching their 2 year limit (based off the date of the post-claim Controversion), you can fill out an ARH/Affidavit of Readiness for Hearing form. (also attached to this email)....

(N. Hansen email, April 10, 2014).

17) On January 2, 2015, the Board received a letter from Employee dated December 22, 2014. The letter stated the following:

“To Who This May Concern: My name is Robert Whiley. Date of Birth 10/04/64. My injury happened on 4/26/11 in Alaska. I relocated to Florida on 12/20/2011. I was talking to the law offices Holmes Weddle & Barcott. We could not come to an agreement. I have not heard from them since 2013. I gave my daughter Kenosha Johnson/Williams power of attorney to help me while I am going through some legal matter. Her name is Kenosha Williams, 2502 Plumadora Dr. Grand InLand, Eustis Fla 32775 #(352)-356-6232. You must call Kenosha Williams and she will let me know whats going on. You can also write me here. I am unable to get my records to my lawyer to get this taken care of. The lawyer I am trying to get is Michael Patterson. He needs my records but I could not get them to him because of money. I don’t have the money to pay for the records. I need help getting him the records. (please help me). I am currently incarcerated here in Florida. I have been incarcerated since 11/26/15. My ankle hurts me every day still! The jail has been working with me. They have given me pain pills for the pain and a bottom bunk pass. They have x-rayed it to see why my ankle keeps hurting. They said there is nothing they can do but give me pain pills. The lawyer I would like to have is Michael Patterson 810 W. 2nd Ave Anchorage, AK 99501 Phone (907) 276-7966. mpatterson@hotmail.com. I am asking for help to get my records to Mr. Patterson because I don’t know what to do I need a lawyer to help me. I received a list of lawyers that handle workers’ compensation claims in the Anchorage/southcentral region on behalf of employees. I picked Michael Patterson from the list. I talked to him before I was arrested and have not talked to him since. My daughter Kenosha talk with him and he said he needed the records. Can you help me get him the records he needs to handle this case please. Thanks! Sincerely, Robert Whiley (Record).

18) On January 6, 2015, a workers’ compensation technician called Ms. Williams and explained that Employee sent a letter to the board requesting she contact her. Ms. Williams explained Employee was trying to settle, but the parties couldn’t agree on an amount. Employee was trying to get an attorney, but was unable to get the records to an attorney. The technician advised Ms. Williams that she would resend the e-mail she sent to her in April of 2014 and attached the release of information form for her to fill out so that her dad’s records could be scanned to a CD for her. (Record).

19) On March 10, 2016, the board designee conducted a PHC. The PHC summary included the §110(c) notice and also states:

Employee did not attend this prehearing conference. Designee was able to leave a voicemail message for Employee at (352) 455-3027. Upon review Designee was unable to determine the reason for this prehearing conference as the last pleading in this case was filed on 8/22/2012. Employer representative advised that they had closed their case file about two years ago and have not had any recent contact

with Employee. Employer representative further advised that they would be asserting a §110(c) defense on any claims yet to be filed. (PHC Summary, March 10, 2016).

20) On March 18, 2016, Employer filed a Petition to Dismiss Employee's May 5, 2011 claim January 17, 2012 claim, and July 31, 2012 claim. (Employer's Petition to Dismiss, March 18, 2016).

21) On March 31, 2016, the parties attended a PHC. The Employee was advised that the Employer had filed a Petition to Dismiss pursuant to §110(c) and that Employee had twenty days to file a response. (PHC Summary, March 31, 2016).

22) On April 7, 2016, Employer filed an ARH on its March 18, 2012 Petition to Dismiss. (Employer's ARH, April 7, 2016).

23) On May 4, 2016, the Board designee conducted a PHC. Employee did not attend. The board designee set a hearing on Employer's March 18, 2016 Petition to Dismiss for June 30, 2016. The PHC summary was mailed to Employee's and Ms. Williams' addresses of record. (PHC Summary, May 4, 2016).

24) On June 16, 2016, a hearing notice was served on all of the parties at their addresses of record. (Record).

25) On June 29, 2016, Ms. Williams called the Workers' Compensation office and updated her contact information. Ms. Williams expressed her disappointment and surprise that a hearing was set for the following day. The board staff member explained that the last prehearing Employee attended was in March 2016 and Employer had filed a petition to dismiss Employee's claims, requested a hearing and attended a PHC to schedule a hearing. Ms. Williams stated the board had incorrect contact information for her and Employee. However, when the mailing address on file was verified, she stated that it is correct but she had not received anything other than the notice for the prehearing. The workers' compensation officer emailed the PHC summaries, Employer's Petition, the ARH and hearing notice to Ms. Williams. Ms. Williams confirmed she received the email. (Record).

26) At hearing, Ms. Williams testified that she became involved in Employee's case in April 2014. She testified she did not know about the two-year requirement to request a hearing. Ms. Williams stated that her and her father's address had changed several times and that she had not received certain documents from the board. Ms. Williams argued that the board has discretion to forgive the procedural error and she hoped that the board would deny the petition to dismiss and give her more time to pursue Employee's case. (Ms. Williams' Hearing Testimony).

27) To date, Employee has not filed an ARH on any of his claims. (Record).

PRINCIPLES OF LAW

AS 23.30.001. Intent of the legislature and construction of chapter. It is the intent of the legislature that

- (1) This chapter be interpreted so as to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of this chapter....

The board may base its decision not only on direct testimony, medical findings, and other tangible evidence, but also on the board’s “experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above.” *Fairbanks North Star Borough v. Rodgers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

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 following an injury, or at any time after death, and the board may hear and determine all questions in respect to the claim.

....

(c) Before a hearing is scheduled, the party seeking a hearing shall file a request for a hearing together with an affidavit stating that the party has completed necessary discovery, obtained necessary evidence, and is prepared for the hearing. . . . If the employer controverts a claim on a board-prescribed controversion notice and the employee does not request a hearing within two years following the filing of the controversion notice, the claim is denied.

....

(h) The filing of a hearing request under (c) of this section suspends the running of the two-year time period specified in (c) of this section. However, if the employee subsequently requests a continuance of the hearing and the request is approved by the board, the granting of the continuance renders the request for hearing inoperative, and the two-year time period specified in (c) of this section continues to run again from the date of the board’s notice to the employee of the board’s granting of the continuance and of its effect. If the employee fails to again request a hearing before the conclusion of the two-year time period in (c) of this section, the claim is denied.

Statutes with language similar to AS 23.30.110(c) are referred to by the late Professor Arthur Larson as “no progress” or “failure to prosecute” rules. “[A] claim may be dismissed for failure to prosecute it or set it down for hearing in a specified or reasonable time.” 7 Arthur Larson & Lex K. Larson, *Workers’ Compensation Law*, Sec. 126.13 [4], at 126-81 (2002). The statute’s object is to bring a claim to the board for a decision quickly so the goals of speed and efficiency in board proceedings are met. *Providence Health System v. Hessel*, AWCAC Decision No. 131 (March 24, 2010).

AS 23.30.110(c) requires an employee to prosecute a claim in a timely manner once a claim is filed, and controverted by the employer. *Jonathan v. Doyon Drilling, Inc.*, 890 P.2d 1121, 1124 (Alaska 1995). Only after a claim is filed, can the employer file a controversion to start the time limit of AS 23.30.110(c). *Wilson v. Flying Tiger Line, Inc.* AWCB Decision No. 94-0143 (June 17, 1994). An employee may file subsequent claims for additional benefits, and the employer must file a controversion to start the time limit of AS 23.30.110(c) against the subsequent claims. *Wicken v. Polar Mining*, AWCB Decision No. 05-0308 (November 22, 2005).

The Alaska Supreme Court has compared AS 23.30.110(c) to a statute of limitations. *Suh v. Pingo Corp.*, 736 P.2d 342, 346 (Alaska, 1987). Dismissal under AS 23.30.110(c) is automatic and non-discretionary. *Pool v. City of Wrangell*, AWCB Decision No. 99-0097 (April 29, 1999); *Westfall v. Alaska International Const.*, AWCB Decision No. 93-0241 (September 30, 1993). In *Tipton v. ARCO Alaska, Inc.*, 922 P.2d 910, 912, 913 (Alaska 1996), the Alaska Supreme Court noted the language of AS 23.30.110(c) is clear, requiring an employee to request a hearing within two years of the controversion date or face claim dismissal. However, the court also noted the statute of limitations defense is “generally disfavored,” and neither “the law [n]or the facts should be strained in aid of it.” *Id.* at 912-913.

Certain events relieve an employee from strict compliance with the requirements of §110(c). The Alaska Supreme Court 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 under law. *Richard v. Fireman’s Fund Insurance Co.*, 384 P.2d 445, 449 (Alaska, 1963). In *Bohlman v. Alaska Const. & Engineering*, 205 P.3d 316 (Alaska, 2009), the Court, applying *Richards*, held the board has a specific duty to inform a *pro se* claimant how to preserve his claim under §110(c). Consequently, *Richards* is applied to excuse noncompliance with §110(c) when the board failed to adequately inform a claimant of the two year time limitation. *Dennis v. Champion Builders*, AWCB Decision No. 08-0151 (August 22, 2008). Certain “legal” grounds might also excuse noncompliance with §110(c), such as lack of mental capacity or incompetence, and equitable estoppel against a governmental agency by a *pro se* claimant. *Tonoian v. Pinkerton Security*, AWCAC Decision No. 029 (January 30, 2007).

“Rare situations” have also been found to toll the limitation statute, for example when a claimant is unable to comply with §110(c) because the parties are awaiting receipt of necessary evidence such as an SIME report. *Aune v. Eastwood, Inc.*, AWCB Decision No. 01-0259 (December 19,

2009). Following *Aune*, decisions began to routinely toll §110(c) in every case where an SIME was performed, regardless of whether the SIME was completed or not. See *Almendarez v. Compass Group USA*, AWCBC Decision No. 11-0146 (September 21, 2011) (citations omitted).

Technical noncompliance with §110(c) may be excused in cases where a claimant has substantially complied with the statute. *Kim v. Alyeska Seafoods, Inc.*, 197 P.3d 193 (Alaska, 2008), accord *Omar v. Unisea, Inc.*, AWCAC Decision No. 053 (August 27, 2007) (remanded to the board to determine whether the circumstances as a whole constituted compliance sufficient to excuse failure to comply with the statute). The Alaska Supreme Court stated because §110(c) is a procedural statute, its application is directory rather than mandatory, and substantial compliance is acceptable absent significant prejudice to the other party. *Kim* at 196. However, substantial compliance does not mean noncompliance, *id.* at 198, or late compliance, *Hessel* at 6. And, although substantial compliance does not require the filing of a formal affidavit, it nevertheless still requires a claimant to file, within two years of a controversion, either a request for hearing, *id.*, or a request for additional time to prepare for a hearing. *Denny's of Alaska v. Colrud*, AWCAC Decision No. 148 (March 10, 2011). Attending prehearings, an employer's medical evaluation and a third doctor's evaluation does not establish substantial compliance. *Hessel*. In discussing the problems presented by SIME tolling, *Amendarez* noted the utility of the holding in *Kim*.

The Alaska Supreme Court set forth a very clear and workable rule for §110(c) in *Kim* Not only did the Court find this rule applicable under the factual circumstances in *Kim*, but it will also serve in the "rare circumstances" contemplated in *Aune*, and in an indefinite number of other unforeseeable circumstances, as well.

The rule in *Kim* is now well-settled and is consistently applied by the Commission. *Colrud; Hessel; Harkness*.

The Alaska Supreme Court has held that *pro se* litigants are held to a lesser standard than attorneys. *Dougan v. Aurora Electric, Inc.*, 50 P.3d 789, 795 (2002). A judge must inform a *pro se* litigant "of the proper procedure for the action he or she is obviously attempting to accomplish." (*Id.*) (citation omitted). Specifically, a judge must notify a *pro se* litigant of defects in his or her brief and give the party an opportunity to remedy those defects. (*Id.*).

8AAC 45.060. Service.

(f) Immediately upon a change of address for service, a party or a party's representative must file with the board and serve on the opposing party a written notice of the change. Until a party or the board receives written notice of a change of address, documents must be served upon a party at the party's last known address.

ANALYSIS

Should Employee's May 5, 2011, January 17, 2012, and July 31, 2012 claims be denied under AS 23.30.110(c)?

The statute at AS 23.30.110(c) directs denial of the claim if a claimant does not request a hearing within two years of a post-claim controversion. The Alaska Supreme Court has held technical noncompliance with the statute may be excused in cases where a claimant has substantially complied with the statute. *Kim*. However, substantial compliance does not mean noncompliance, *id.*, or late compliance, *Hessel*. Although substantial compliance does not require the filing of a formal affidavit, it nevertheless still requires a claimant to file, within two years of a controversion, either a request for hearing, *id.*, or a request for additional time to prepare for a hearing, *Colrud*.

Employee and his representative contended at various points that he did not know what he should do. His contentions are unpersuasive. All three of Employer's post-claim controversions informed Employee he must request a hearing within two years of the notice. Four PHC summaries sent before the two year requirement had expired, explicitly advised Employee of the §110(c) requirement. The record discussed above demonstrates that both the Employee and his representative were active in his case and contacted the office in numerous ways- in person visits, calls, e-mails, and letters to ask questions and gather information.

Employee filed workers' compensation claims on May 5, 2011, January 17, 2012, and July 31, 2012. The requirement to request a hearing therefore ran out on May 5, 2013, January 17, 2014 and August 22, 2014 respectively. The last critical time period in question is the two year time frame after the third controversion had been filed.

Immediately after the August 22, 2012 controversion was filed, a PHC was held on August 23, 2013. Employee attended the PHC and received a summary at his address of record, which included a §110(c) notice. On May 14, 2013 Employee attended another PHC and received another §110(c) notice in the summary. On May 21, 2013 an attorney list and ARH form was e-mailed to Employee. On February 28, 2014 Ms. Williams filed her non-attorney representative entry of appearance. On April 10, 2014 a workers' compensation technician sent Ms. Williams an incredibly detailed e-mail specifically advising:

If you feel you are ready for the board to hold a formal hearing regarding any of the previous claims filed by your dad, or any of the claims are reaching their 2 year limit (based off the date of the post-claim Controversion), you can fill out an ARH/Affidavit of Readiness for Hearing form. (also attached to this email).

Despite having three controversion notices citing §110(c), four PHC summaries citing §110(c), and an ARH form e-mailed to Employee, Employee took no action to request a hearing.

Ms. Williams also did not file an ARH after being advised of the requirement via e-mail and being sent the form on April 10, 2014. Neither Employee nor Ms. Williams took any further

action in Employee's case after April 10, 2014 until after January 2, 2015 when the board received a letter from Employee requesting help transferring his records to an attorney.

Employee's failure to take notice of the controversions and PHC summaries sent to him cannot be charged against Employer. Employee also had a continuing duty to update his address and serve notice of such on the board and other parties. 8 AAC 45.060(f).

It is undisputed Employee did not file an ARH within two years of Employer's post-claim controversion. Further, when asked at hearing, Employee could not cite to an example of substantial compliance, such as an informal request for hearing or a request for additional time to prepare for a hearing, even when queried.

It is acknowledged the Alaska Supreme Court has instructed *pro se* litigants should be afforded some degree of procedural leniency. *Dougan*. However, under the facts here, it is clear that Employee ignored the requirement. Since Employee has failed to comply or substantially comply with the statute, his claim should be dismissed. AS 23.30.110(c); *Kim*.

CONCLUSION OF LAW

Employee's May 5, 2011, January 17, 2012, and July 31, 2012 claims should be dismissed under AS 23.30.110(c).

ORDER

Employee's May 5, 2011, January 17, 2012, and July 31, 2012 claims are denied.

Dated in Fairbanks, Alaska on July 30, 2016.

ALASKA WORKERS' COMPENSATION BOARD

/s/

Kelly McNabb, Designated Chair

/s/

Jacob Howdeshell, Board Member

Unavailable for Signature

Sarah Lefebvre, Board 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 ROBERT A WHILEY, employee / claimant; v. ALASCORP INC, employer; LIBERTY NORTHWEST INSURANCE CO, insurer / defendants; Case No(s). 201105698; dated and filed in the Alaska Workers' Compensation Board's office in Fairbanks, Alaska, and served on the parties by First-Class U.S. Mail, postage prepaid, on August 2, 2016.

/s/

Elizabeth Pleitez, Office Assistant