ALASKA WORKERS' COMPENSATION BOARD

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

TIMOTHY ROHRER,	)	
	)	INTERLOCUTORY
Employee,	)	DECISION AND ORDER
Petitioner,	)	
	)	AWCB Case No. 201512829
v.	)	
	)	AWCB Decision No. 18-0071
PETRO STAR, INC.,	)	
	)	Filed with AWCB Anchorage, Alaska
Employer,	)	on July 19, 2018
	)	
and	)	
	)	
ARCTIC SLOPE REGIONAL CORP.,	)	
	)	
Insurer,	)	
Respondent.	)	

Timothy Rohrer's (Employee) petition for a second independent medical evaluation (SIME) was heard on the written record in Anchorage, Alaska, on July 5, 2018, a date selected on May 31, 2018. Attorney J.C. Croft appeared and represented Employee. Attorney Timothy McKeever appeared and represented Petro Star, Inc. and Arctic Slope Regional Corp. (Employer). The record closed on July 13, 2018, when the panel met to deliberate.

ISSUES

Employee contends there is a medical dispute between his treating physician and the Employer's medical evaluator (EME) regarding causation and "other issues." Employee contends the medical dispute is significant and an SIME will assist to resolve the conflict.

Employer opposes an SIME. Employer contends Employee failed to timely request an SIME after he was aware of the medical records he alleges create a dispute and, therefore, Employee waived his right to an SIME. Employer also contends there are no significant disputes which require an SIME.

Shall an SIME be ordered?

FINDINGS OF FACT

A review of the written record establishes the following relevant facts and factual conclusions by a preponderance of the evidence:

1) On September 22, 2014, Employee was sitting in an office chair that collapsed from underneath him. He fell to the floor, which impacted his spine. Employee reported this injury to Employer on July 31, 2015. (First Report of Injury, August 14, 2015.)

2) On April 16, 2015, history taken prior to an MRI noted Employee suffered an injury at work in August 2014, and low back pain has persisted with possible right thigh radicular pains. The MRI showed Employee's lumbar spine was normally aligned, with disc desiccation and mild disc space narrowing present at most lumbar levels with degenerative endplate changes at L5–S1; a trace diffuse disk bulge and mild facet arthritis at L3–L4, with no stenosis; a broad-based left paracentral disc protrusion, facet arthritis and ligamentum flavum hypertrophy combined to cause mild spinal stenosis and mild to moderate left lateral recess stenosis at L4–L5, with no significant foraminal stenosis; and a small diffuse disk bulge and moderate bilateral facet arthritis resulting in moderate bilateral neural foraminal stenosis at L5–S1. (MRI Report, April 16, 2015.)

3) On August 13, 2015, Garrett Williams, D.C, conducted Employee's "Fit for Duty Examination," which states on April 20, 2015, Employee had been referred to Providence Hospital for a physical therapy evaluation. Employee reported he continued to have low back pain ranging from moderate to severe. "He is following up with workers' compensation & is being required to get a Fit for Duty exam." Dr. Garrett determined Employee was fit to perform modified work and referred Employee for an orthopedic evaluation. (Daily Chart Notes and Fit for Duty Report, Dr. Garrett, August 13, 2015.)

4) On August 21, 2015, Shawn Johnston, M.D., saw Employee on referral from Dr. Williams. Dr. Johnston noted Employee's work related injury dated back to September 2014, when the chair Employee was sitting on lost the fourth of four bolts and he fell to the ground landing on his tailbone. Dr. Johnston said Employee "suffered an extension-type injury." The majority of Employee's pain was in his lower back, with some degree occasionally in his right thigh. Dr. Johnston reviewed an MRI, which revealed "a bit of disk bulge at multiple levels, disc space narrowing mostly at the L5-S1 level. Most of his pain however seems to be in lower back over the lumbar facets." Dr. Johnson's recommendation was diagnostic, as well as potentially therapeutic, lumbar facet interventions at the bilateral L4-L5 and L5-S1 levels to alleviate Employee's symptoms and return Employee to work. (Evaluation Report, Dr. Johnston, August 21, 2015.)

5) On August 21, 2015, Employee received bilateral L4-L5 and L5-S1 lumbar facet injections for lumbar spondylosis and severe low back pain. (Procedure Note, University Imaging Center, Harold Cable, M.D., August 21, 2015.)

6) On December 9, 2015, Dr. Johnston diagnosed Employee with lower back pain and lumbar spondylosis. Dr. Johnston said, "Mr. Rohrer's history is well detailed in my previous notes. He does have lumbar spondylosis and had irritation of his underlying degenerative changes. This has still been present." Employee reported he got 30 percent relief with facet interventions and "had never had back pain prior to that." Dr. Johnston's impression was Employee aggravated his underlying degenerative changes and he continued to have ongoing symptoms. (Chart Note, Dr. Johnston, December 9, 2015.)

7) On December 9, 2015, Douglas Bald, M.D., evaluated Employee to determine what relationship, if any, existed between his current low back complaints and his September 22, 2014 injury. Dr. Bald recorded Employee's report as follows:

> By his history today, he had been working in the shop and went to take a break with other employees; when he sat down in a chair, it collapsed underneath him. By his history, he was aware of the acute onset of some pain in his lower back area, but did not report an injury and continued to work full-time regular duty.
>
> By the claimant's history today, he did not initiate any medical treatment, though he does state that he had some persistent and ongoing lower back pain over the next several months.
>
> . . . .

> Mr. Rohrer today provides the history that he did initiate medical treatment in the spring of 2015 when he came under the care of Garrett Williams, D.C. in Valdez. . . . [H]e continued the chiropractic treatments for a short period of time but did not experience any significant benefit from them and continued to be persistently symptomatic to the point that Dr. Williams discharged him from chiropractic care and recommended a MRI scan as well as a specialty referral.
> . . . .
>
> Mr. Rohrer states that he has persistent constant aching type pain in his lower back area that will vary in intensity depending upon his level of activity between a 3 and a 7. His symptoms are aggravated by repetitive bending and lifting and increased with cough or sneeze. He is aware of occasional random sharp pain in the right anterolateral thigh that seems to resolve within a minute or so but when it does occur it is associated with a slight sensation of numbness as well. He denies any other symptomatology related to his lower extremities. At this time, he is continuing to work full-time regular duty, 12 hours a day, seven days a week with one week on and one week off and is not involved in any kind of back specific, self-directed exercise program.

Dr. Bald diagnosed lumbar strain, by history, on September 22, 2014, and lumbar spine multilevel degenerative disc disease and facet arthritis pre-existing Employee's September 22, 2014 work incident. Dr. Bald concluded Employee likely incurred a minor low back strain as a result of the September 22, 2014 work incident but any injury incurred was "not too severe as he did not initiate medical treatment until many months later." Dr. Bald opined Employee's low back complaints "are exclusively related to what is described as moderately severe multilevel degenerative disc disease and facet arthritis of the lumbar spine." Dr. Bald said the medical evidence does not support a September 22, 2014 work incident "has ever been 'the substantial cause' of [Employee's] complaint of lower back pain or need for treatment in 2015." Dr. Bald concluded the September 22, 2014 incident was relatively minor and did not contribute to Employee's "current complaints." In Dr. Bald's opinion, "100 percent of [Employee's] need for medical treatment directed towards his lower back in 2015 is related to management of his multilevel degenerative disc disease" and degenerative disc disease is the substantial cause of Employee's need for low back treatment. Dr. Bald did not find the September 22, 2014 work incident caused "even a temporary aggravation of his pre-existing degenerative disc disease" or a permanent aggravation of his pre-existing condition. Unrelated to causation, Dr. Bald believed Employee would benefit from a brief period of low back physical therapy and instruction in a self-directed low back exercise program; however, the September 22, 2014 work incident is not the substantial cause of Employee's

treatment needs. Dr. Bald opined Employee was long ago medically stable and without permanent partial impairment or physical restrictions attributable to his work injury and is physically capable of working full-time, regular duty, at his job with Employer. (EME Report, Dr. Bald, December 9, 2015.)

8) On December 17, 2015, Employer controverted temporary total disability (TTD), permanent partial impairment (PPI), medical and "related" benefits. Dr. Bald's EME report was not attached to Employer's controversion. (Controversion, December 17, 2015.)

9) On December 8, 2017, Employee reported to Dr. Johnston that prior to the work related incident, he never had lower back pain and got four months relief with the facet interventions; however, his symptoms came back immediately after that. Therefore, Dr. Johnston concluded Employee's work injury caused permanent aggravation of his underlying lumbar spine degenerative changes. Dr. Johnston planned additional facet interventions in hopes of producing the same symptom relief Employee had from the first set of facet injections. If the facet interventions proved successful, consideration would be given to a radiofrequency procedure. (Chart Note, Dr. Johnston, December 8, 2017.)

10) On December 12, 2017, Employee filed a claim for PPI benefits, medical and transportation costs, attorney fees and costs, and for a determination Employer's controversion was unfair or frivolous. Employee's stated reason for filing the claim is, "I contest the claim controversion by Petro Star, Inc. I continue to have debilitating back pain from the injury and have had two procedures of spinal facet injections to alleviate the continuing pain. I had no chronic back pain before the injury. My physician believes the impact is responsible for the onset of the chronic pain." (Workers' Compensation Claim, December 11, 2017.)

11) On January 4, 2017, Employer controverted those benefits claimed in Employee's December 11, 2017 claim. The basis for its controversion was no PPI was due because a rating had not been provided; Employer was unaware of any medical benefits for which Employee's work injury is the substantial cause; and Employee provided no documentation to support his claim for medical transportation expenses. Dr. Bald determined Employee recovered and the work injury was no longer the substantial cause of Employee's disability or need for medical treatment. Employer asserted attorney fees and costs are not owed because no attorney had entered an appearance. (Controversion Notice, January 4, 2018.)

12) On January 12, 2018, J.C. Croft entered his appearance on Employee's behalf. (Entry of Appearance, J.C. Croft, January 12, 2018.)

13) On March 1, 2018, Employee sought an SIME to resolve the dispute between his treating physician and Employer's EME physician. Employee attached an SIME form and the medical records he contends contain the physicians' dispute to his petition; specifically, Dr. Johnston's December 8, 2017 opinion the work incident was a permanent aggravation of Employee's underlying degenerative changes and Dr. Bald's December 9, 2015 opinion the substantial cause of Employee's low back complaints is multilevel degenerative disc disease and arthritis. (Petition, March 1, 2018.)

14) On March 19, 2018, Employer requested information from Employee's attorney and asked, "Can you please let us know what benefits Mr. Rohrer claims he is entitled to which have not been paid? My client believes she has paid for most of the medical care and transportation expenses and you have not claimed any time loss. So what are we fighting about?" (Email from Timothy McKeever to J.C. Croft and Patty Jones, March 19, 2018.)

15) On April 23, 2018, after Mr. Croft responded to Employer's March 19, 2018 inquiry and indicated Employee was "pursuing the matter to get a general determination that his claim was compensable" but did not provide information about the specific benefits Employee claimed, Employer again asked for "specific information about the specific benefits which are being claimed." (Email from Timothy McKeever to J.C. Croft, April 23. 2018.)

16) After adding three days for mailing, March 1, 2018 is 549 days after December 17, 2015, the day Employee received Employer's controversion based upon Dr. Bald's opinion, which reflects a dispute between Employees's treating physician, Dr. Johnston, and Employer's physician. (Observations.)

17) No deposition transcripts have been filed. (Record.)

18) A controversion notice is not a medical report. (Experience; Observations.)

19) After adding three days for mailing, March 1, 2018 is 29 days from January 29, 2018, the date Employer served Employee with Dr. Bald's report on a medical summary. (Observation, Record.)

20) If a PPI rating has been conducted, the record of the rating has not been filed. (Record.)

21) If there are outstanding medical bills, no records of those bills have been filed. (Record.)

22) If Employee has incurred transportation expenses, a record of those expenses has not been filed. (Record.)

23) Neither a medical report nor physician's order restricting Employee from work due to his September 22, 2014 work injury has been filed with a medical summary or is contained in the record. (Record.)

PRINCIPLES OF LAW

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 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.
. . . .

(h) The department shall adopt rules for all panels, and shall adopt regulations to carry out the provisions of this chapter. . . . Process and procedure under this chapter shall be a summary and simple as possible. . . .
. . . .

AS 23.30.010. Coverage. (a) Except as provided in (b) of this section, compensation or benefits are payable under this chapter for disability or death or the need for medical treatment of an employee if the disability or death of the employee or the employee's need for medical treatment arose out of and in the course of the employment. To establish a presumption under AS 23.30.120(a) (1) that the disability or death or the need for medical treatment arose out of and in the course of the employment, the employee must establish a causal link between the employment and the disability or death or the need for medical treatment. A presumption may be rebutted by a demonstration of substantial evidence that the death or disability or the need for medical treatment did not arise out of and in the course of the employment. . . . When determining whether or not the death or disability or need for medical treatment arose out of and in the course of the employment, the board must evaluate the relative contribution of different causes

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

AS 23.30.095. Medical treatments, services, and examinations.
. . . .

(k) In the event of a medical dispute regarding issues 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. . . .

23.30.155. Payment of compensation.
. . . .

(h) The board may upon its own initiative at any time in a case . . . where right to compensation is controverted . . . make the investigations, cause the medical examinations to be made, or hold the hearings, and take the further action which it considers will properly protect the rights of all parties.

8 AAC 45.092. Selection of an independent medical examiner.
. . . .

(g) If there exists a medical dispute under AS 20.30.095(k),
. . . .

(2) a party may petition the board to order an evaluation; the petition must be filed within 60 days after the party received the medical reports reflecting a dispute, or the party's right to request an evaluation under AS 23.30.095(k) is waived;
. . . .

(3) the board will, in its discretion, order an evaluation under AS 23.30.095(k) even if no party timely requested an evaluation under (2) of this subsection if
. . . .

(B) the board on its own motion determines an evaluation is necessary.

The following, general criteria are typically considered when ordering an SIME, though the statute does not expressly so require:

1. Is there a medical dispute between Employee's physician and Employer's EME?

2. Is the dispute "significant"?

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

Deal v. Municipality of Anchorage (ATU), AWCB Decision No. 97-0165 at 3 (July 23, 1997). *See also, Schmidt v. Beeson Plumbing and Heating*, AWCB Decision No. 91-0128 (May 2, 1991). Considering the broad procedural discretion granted in AS 23.30.135(a) and AS 23.30.155(h), wide discretion exists under AS 23.30.095(k) and AS 23.30.110(g) to consider any evidence available when deciding whether to order an SIME.

The Alaska Workers' Compensation Appeals Commission (commission) in *Bah v. Trident Seafoods Corp.*, AWCAC Decision No. 073 (February 27, 2008), addressed the authority to order an SIME under AS 23.30.095(k), when there is a medical dispute, and AS 23.30.110(g), when there is a gap in the medical evidence. With regard to AS 23.30.095(k), the commission referred to its decision in *Smith v. Anchorage School District*, AWCAC Decision No. 073 (February 27, 2008), at 8, in which it said:

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

The commission further noted that before ordering an SIME, the board traditionally finds the medical dispute "significant or relevant" to a pending claim or petition, and the SIME will assist in resolving the dispute. *Bah*, at 4. Under either AS 23.30.095(k) or AS 23.30.110(g), the commission noted an SIME's purpose is to assist the board in resolving a significant medical dispute; it is not intended to give Employee an additional medical opinion at Employer's expense when Employee disagrees with his own physician's opinion (*id.*). The purpose of an SIME is to have an independent expert provide an opinion about a contested issue. *Seybert* v. *Cominco Alaska Exploration*, 182 P.3d 1079, 1097 (Alaska 2008). Contested benefits' value are considered when determining if a medical dispute is significant. *See eg. McKenna v. State of Alaska,* AWCB Decision No. 16-0086 (September 26, 2016).

(Contested benefit was permanent total disability benefits.) "[T]he SIME physician is the board's expert." *Bah*, at 5, citing *Olafson v. State, Dep't of Trans. & Pub. Facilities*, AWCAC Decision No. 061, at 23 (October 25, 2007).

Richard v. Fireman's Fund, 384 P.2d 445 (Alaska 1963), was a civil tort case primarily about the insurer's duty to arrange for medical care for an injured worker, as opposed to simply paying for the care pursuant to the Act once the injured employee made his own arrangements.

> On February 5, 1960, the appellant suffered an injury to his left eye. His employer sent him to Seattle and there provided medical care for him, including an operation on the eye, by Drs. Hicks and Stellwagen. In compliance with doctor's instructions, the appellant . . . underwent an examination of the injured eye by Dr. Leer, an Alaskan eye specialist. . . . This examination disclosed that the appellant had suffered a detachment of the retina and prompted Dr. Leer to recommend to the appellant's hometown physician, Dr. Shuler, by letter dated June 17, 1960, that 'surgery should be done as soon as is feasible because the longer the detachment persists, the less the chances of success.'. . . A copy of the letter was sent to the Board and the insurance carrier. . . .

Id. at 446. Richard lost sight in one eye from delays in obtaining medical care. *Richard* criticized the board for "its failure to promptly advise the appellant on how to proceed" and stated:

> We hold to the view that a workmen's compensation board or commission owes to every applicant for compensation that duty of fully advising him as to all the real facts which bear upon his condition and his right to compensation, so far as it may know them, and of instructing him on how to pursue that right under the law.

Id. at 449; footnote omitted.

ANALYSIS

Shall an SIME be ordered?

Employee requested an SIME on March 1, 2018. Employer contended Employee received the controversion based upon Dr. Bald's EME report in December 2015, and was aware of a medical dispute between his treating physician, Dr. Johnston, and Dr. Bald. Employer also asserts Employee knew of a dispute between Dr. Johnston and Dr. Bald when he filed his claim, which states, "My physician believes that the impact is responsible for the onset of chronic pain."

Employer has demonstrated Employee had knowledge of a dispute between Dr. Johnston and Dr. Bald and that his SIME request was filed more than 60 days after acquiring knowledge of the dispute. However, waiver of a party's right to request an SIME requires more than knowledge of a dispute for commencement of the 60 day time limit to request an SIME. 8 AAC 45.092(g)(2). The request must be made within 60 days of receiving "the medical reports reflecting a dispute." *Id.* A regulation could have been adopted that requires a party to request an SIME within 60 days of obtaining knowledge a medical dispute exists. AS 23.30.005(h). However, this would lead to a fact-intensive inquiry, which in turn would delay a benefits award and undermine the quick and predictable award of benefits at a reasonable cost to employers. AS 23.30.001. The regulation does not require an employee's knowledge of a dispute be scrutinized on an individual basis to determine when the knowledge was acquired and whether an SIME request was timely. Instead, the regulation draws a line; an SIME must be requested within 60 days after medical reports reflecting a dispute are received. 8 AAC 45.092(g) (2)This line lends precision to determining if a request was timely filed.

Under the criteria established in 8 AAC 45.092(g) (2), Employee's request for an SIME was timely. Employer filed a medical summary containing Dr. Bald's report on January 29, 2018. Adding three days for mailing, Employee is presumed to have received the report on February 1, 2018. Employee filed his SIME request on March 1, 2018, 29 days after receiving Dr. Bald's report, which reflects a dispute with Dr. Johnston's opinion.

Finding Employee timely requested an SIME, the question whether a significant medical dispute exists is resolved by reviewing medical records or depositions. *Rogers & Babler*. There are no depositions filed in Employee's case. Employee's claim is for medical and transportation costs, PPI, attorney fees and costs, and requests a finding Employer's controversion was frivolous or unfair. Of the benefits Employee claims, an SIME could only assist if there are disputes regarding medical and PPI benefits. AS 23.30.095(k).

There must be dispute between Employee's treating physician, Dr. Johnston, and Employer's physician, Dr. Bald. *Id*. Dr. Bald determined Employee's work injury was a lumbar strain. Dr. Bald, like Dr. Johnston, diagnosed multilevel degenerative disc disease pre-existing

Employee's work injury. Dr. Bald also diagnosed facet arthritis pre-existing Employee's work injury. Considering the significant passage of time prior to Employee seeking medical attention, Dr. Bald concluded Employee's moderately severe multilevel degenerative disc disease and facet arthritis, not work, have always been the substantial cause of Employee's disability or need for medical treatment. He opined Employee was "long ago" medically stable and does not have a PPI related to the work incident.

Employee's medical care has been sporadic. He was initially treated by Dr. Williams who determined Employee was fit for duty, yet referred him to Dr. Johnston for an orthopedic evaluation. Dr. Johnston has seen Employee on three occasions. On the first, he diagnosed an "extension-type injury" and noted degeneration in Employee's spine and believed his pain was coming from his lumbar facets. When Dr. Johnston next saw Employee, he diagnosed lumbar spondylosis with irritation of Employee's underlying degenerative changes. December 8, 2017 was Dr. Johnston's most recent Employee evaluation. Employee reported four months relief from the facet intervention and that he never had low back pain prior to the incident at work and Dr. Johnston concluded the work incident permanently aggravated Employee's underlying spine degenerative changes. Even if Employee's incident at work permanently aggravated his degenerative disc disease, it may still not be the substantial cause of Employee's need for medical treatment. A "permanent aggravation" is one substantial factor to be considered when evaluating each different factor's relative contribution to determine the substantial cause of an Employee's disability or need for medical treatment. AS 23.30.010(a). Employee's pre-existing degenerative disc disease is the other substantial factor that must be considered. *Id.* Dr. Johnston has not evaluated the relative contributions of all factors giving rise to Employee's need for medical treatment, he has not offered an opinion regarding the substantial cause of Employee's disability or need for medical treatment, has not restricted Employee from work, nor has he conducted a PPI rating. Therefore, the current medical record demonstrates no medical dispute warranting an SIME. *Seybert*; *Bah*; *Smith*.

In the alternative, if a medical dispute did exist, whether the dispute is significant would be analyzed. When determining if an SIME will assist in the decision making process, what is significant is often considered in light of contested benefits' values. *McKenna*. Employee seeks

an SIME opinion to get a "general determination" his claim is compensable. However, there is no evidence of outstanding medical expenses, a lien has not been filed by Employee's health insurance provider, and Employee has not filed evidence of unpaid transportation expenses. Even after Employer inquired, Employee has not specified any unpaid medical or transportation costs, has not provided a PPI rating, nor has he specified the benefits he seeks. Employee may be seeking an opinion evaluating the relative contribution of all factors contributing to Employee's need for medical treatment; however, an SIME is not intended to give Employee an additional medical opinion at Employer's expense. *Bah*; AS 23.30.001. Until the benefits Employee seeks are identified, and Dr. Johnston analyzes the relative contribution of Employee's pre-existing degenerative disc disease and the permanent aggravation to his degenerative disc disease by the work injury and offers an opinion regarding which factor is the substantial cause of Employee's need for medical treatment, it is not possible to determine if there is a "significant" dispute, nor will an SIME assist to resolve the parties' disputes because those disputes have not been clearly articulated. *Deal*; *Bah*.

However, this does not mean Employee cannot still develop evidence justifying an SIME. To ensure quick, efficient, and fair delivery of benefits to Employee if he is entitled to them, at a reasonable cost to Employer, and to make this process as summary and simple as possible, Employee is advised to take the EME report to Dr. Johnston, his attending physician, and ask him to review the medical opinions set forth therein. AS 23.30.001(1); AS 23.30.005(h). Employee should ask his attending physician to prepare a report stating he either agrees or disagrees with the EME's opinions. If Employee's attending physician agrees with the EME, there will again be no medical disputes warranting an SIME. If Employee's attending physician disagrees in writing with one or more expressed EME opinion, this will form the basis for a medical dispute, and the parties can either stipulate to an SIME or bring the issue back for an additional hearing. *Richard*.

Issues can be resolved quickly and efficiently when the issues are clearly identified. Employee is encouraged to maintain open lines of communication with Employer through his attorney.

CONCLUSIONS OF LAW

An SIME shall not be ordered.

ORDER

1) Employee's March 1, 2018 SIME petition is denied without prejudice.

2) Employee is free to file a subsequent petition requesting an SIME should he obtain relevant medical evidence.

Dated in Anchorage, Alaska on July 19, 2018.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Janel Wright, Designated Chair

/s/
Amy Steele, Member

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 TIMOTHY ROHRER, employee / petitioner; v. PETRO STAR, INC., employer; ARCTIC SLOPE REGIONAL CORP., insurer / respondents; Case No. 201512829; 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 July 19, 2018.

/s/
Charlotte Corriveau, Office Assistant