ALASKA WORKERS' COMPENSATION BOARD

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

TERRY PARSONS, Employee, Claimant, v. CRAIG CITY SCHOOL DISTRICT, Employer, and ALASKA MUNICIPAL LEAGUE JOINT INSURANCE ASSOCIATION, Insurer, Defendants.	)	FINAL DECISION AND ORDER AWCB Case No. 200111621 AWCB Decision No. 21-0004 Filed with AWCB Juneau, Alaska on January 8, 2021.

Craig City School District and Alaska Municipal League Joint Insurance Association's (Employer) October 5, 2020 petitions to dismiss Terry Parsons' (Employee) September 8, 2020 claim and for attorney's fees and costs were heard on December 15, 2020 in Juneau, Alaska, a date selected on November 5, 2020. An October 21, 2020 affidavit of readiness for hearing (ARH) gave rise to this hearing. Employee appeared telephonically, represented herself and testified. Attorney Rebecca Holdiman Miller appeared telephonically and represented Employer. The record closed at the hearing's conclusion on December 15, 2020.

ISSUES

Employer contends *res judicata* bars Employee from re-litigating her claim. It seeks an order dismissing Employee's claim.

Employee opposes Employer's petition to dismiss. She contends new medical evidence proves her prior claims were unfairly denied, her ongoing complaints and symptoms are related to her work injury and she is unable to work due to her work injury. Employee requests an order denying Employer's October 5, 2020 petition.

1) Should Employer's October 5, 2020 petition to dismiss Employee's September 8, 2020 claim be granted?

Employer contends Employee's pursuit of benefits is baseless and unreasonable. It requests a pre-litigation screening order to deter Employee from continuing to file meritless claims.

Employee opposed Employer's request for a pre-litigation screening order. She contends her claim is proven by evidence.

2) Should the issue of a pre-litigation screening order be decided at this time?

Employer contends Employee should be ordered to reimburse its attorney's fees and cost for defending against a meritless claim. It requests an order granting its October 5, 2020 petition.

Employee objects to Employer's petition seeking attorney's fees and costs. She contends her claim has a basis in fact and law. Employee contends she cannot afford to pay Employer's attorney's fees and costs. She requests an order denying Employer's October 5, 2020 petition.

3) Should Employer's October 5, 2020 petition for attorney's fees and costs be granted?

FINDINGS OF FACT

The following facts and factual conclusions are established by a preponderance of the evidence or are reiterated from *Parsons v. Craig City School District*, AWCB Decision No. 11-0140 (September 13, 2011) (*Parsons I*), *Parsons v. Craig City School District*, AWCAC Decision No. 168 (August 30, 2012) (*Parsons II*), *Parsons v. Craig City School District*, AWCB Decision No. 18-0013 (February 7, 2018) (*Parsons III*), and *Parsons v. Craig City School District*, AWCAC Decision No. 255 (November 26, 2018) (*Parsons IV*):

1) On June 29, 2001, Employee had an injury while working as a custodian for Employer. She was closing a pull down attic ladder when it came back down, hitting her right arm and chest and knocking her to the floor. Soon after the injury, Employee began to experience symptoms, including pain in her head, neck, shoulders, arms, legs, chest, back, abdomen, pelvis, inflammation throughout her entire body and diarrhea. (*Parsons I*).

2) On July 23, 2001, Michael Melendrez, D.C., treated Employee for head, neck, abdomen, arm, and back pain. (*Parsons I*).

3) On August 10, 2001, Robert Crochelt, M.D., evaluated Employee for overall body complaints and symptoms. Dr. Crochelt did not diagnose any conditions, stating, "There may be a psychological overlay to her response to this illness, ie, a ladder coming out of the ceiling and striking her or there may be other issues at work that I do not understand." He stated there was no indication for further investigation. (*Parsons I*).

4) On August 23, 2001, K. Richey, M.D. treated Employee for multiple pains and assessed possible gallbladder disease. Dr. Richey stated, "She thinks that maybe her continued problems are a result of this work injury. Although it is difficult to see how abdominal pains, headache, and neck pains would happen as a result of this." (*Parsons I*).

5) On November 30, 2001, Employee filed a claim for temporary total disability (TTD), temporary partial disability (TPD), medical and related transportation costs, penalty, interest and a finding of unfair or frivolous controversion. She reported injuries to her arms, sides, back, hands, abdomen, and upper body. (*Parsons I*).

6) On August 17, 2010, Sanjay Garg, M.D., evaluated Employee and diagnosed undifferentiated spondyloarthropathy. He opined Employee's work injury did not cause her current inflammatory spondyloarthropathy and also opined she had no disability related to her condition. (*Parsons I*).

7) On September 2, 2010, Employee filed another claim relating to her June 29, 2001 work injury, and as amended on April 14, 2011, requested TTD, TPD, permanent total disability (PTD), permanent partial impairment (PPI), medical and transportation costs, penalty, interest and a finding of unfair or frivolous controversion. Employee reported complaints and symptoms of body inflammation and injuries to her arms, chest, head, right side, legs and shoulders. (*Parsons I*).

8) On September 13, 2011, *Parsons I* held (1) Employee's claim was not denied under AS 23.30.110(c) and (2) Employee's 2001 work injury was not a substantial factor in Employee's past and current need for medical treatment for her ongoing complaints and symptoms. (*Id*.).

9) On August 30, 2012, the Alaska Workers' Compensation Appeals Commission (Commission) issued *Parsons II* (1) reversing *Parsons I*'s order denying Employer's petition to dismiss under AS 23.30.110(c) and (2) affirming its order denying Employee's claim for benefits. (*Parsons II*).

10) On September 18, 2017, Employee requested her claim be reopened in a letter that the division treated as a petition, which stated:

> I wrote a letter a while back. And your office gave me a certain amount of time before closing my case. I couldn't get my info [sic] in time because of the stress and also sickness and meds [sic], I was on. The meds [sic] took their toll on me. . . . Please help me reopen my case. So I can live the rest of life with the help I deserved a long time ago. (*Parsons III*).

11) On October 11, 2017, Employee filed a June 7, 2010 notarized letter from Marla Anderson. (*Parsons III*).

12) On October 19, 2017, Employer requested dismissal of Employee's September 18, 2017 petition. (*Parsons III*).

13) On December 12, 2017, Employee filed a March 16, 2011 notarized statement from Matthew Kingery. (Notice of Intent to Rely, December 12, 2017; Kingery Statement, March 16, 2011).

14) On February 7, 2018, *Parsons III* issued and dismissed Employee's petition to reopen her case with prejudice. (*Parsons III*). The division served *Parsons III* by first class mail on Employee on February 7, 2019, at her address of record. It explained Employee could petition for reconsideration, but must do so within 15 days, could petition for modification within one year and could appeal within 30 days to the Commission. (*Parsons III*).

15) On November 26, 2018, *Parsons IV* issued and affirmed *Parsons III*'s dismissal of Employee's petition. (*Parsons IV*).

16) On November 20, 2019, the Alaska Supreme Court (Supreme Court) affirmed *Parsons IV*. (*Parsons v. Craig City School District*, Memorandum Opinion and Judgment No. 1748, November 20, 2019).

17) On May 27, 2020, Employee complained of experiencing low back pain for several years which progressively worsened over time. The low back pain was primarily right-sided radiating into her right mid-calf with numbness; she occasionally experienced left-sided pain as well. Ashley Howell, PA-C, recommended an updated lumbar spine magnetic resonance imaging (MRI). (Howell chart note, May 27, 2020).

18) On June 3, 2020, a lumbar MRI showed mild lumbar spondylosis in combination with congenitally shortened lumbar pedicles resulting in mild to moderate spinal stenosis. (MRI report, June 3, 2020).

19) On June 10, 2020, Employee reported experiencing right-sided low back pain radiating laterally to the right mid-calf with intermittent numbness for many years. PA-C Howell diagnosed low back and radicular pain in the right lower limb with imaging evidence of lumbar disc protrusion and annular tearing. She recommended a right L5 transforaminal epidural steroid injection (ESI). (Howell chart note, June 10, 2020).

20) On June 24, 2020, Employee underwent a right L5 transforaminal lumbar ESI. (Peter Bailey, M.D., procedure note, June 24, 2020).

21) On August 4, 2020, Employee reported great right-sided symptom relief after a right L5 transforaminal ESI on June 24, 2020. She reported left-sided low back and buttock pain radiating laterally to her knee and chronic neck pain which worsened in the last three to four months. PA-C Howell recommended a cervical spine MRI. (Howell chart note, August 4, 2020).

22) On August 17, 2020, a cervical spine MRI revealed a broad-based disc herniation at C5-6 resulting in moderate central canal stenosis with cervical spondylosis contributing to bilateral foraminal stenosis and mild central canal stenosis at C6-7 secondary to posterior disc osteophyte complex. (MRI report, August 17, 2020).

23) On August 17, 2020, the Commission wrote to Employee in response to her July 22, 2020 letter seeking assistance in filing a claim. It directed her to contact the division's technician. (Letter, August 17, 2020).

24) On August 18, 2020, Employee described worsening neck pain the last four months. The pain was centrally located and ached into her shoulders with intermittent pain radiating to her left elbow; she also had occipital headaches. PA-C Howell diagnosed neck and intermittent left arm pain with imaging evidence of cervical foraminal stenosis and bilateral occipital neuralgia.

Employee wanted to proceed with physical therapy to develop an at-home regimen and traction. PA-C Howell recommended a C7-T1 interlaminar ESI and ultrasound-guided bilateral nerve block and reassessment in two months. (Howell, chart note, August 18, 2020).

25) On September 8, 2020, Employee sought PTD, an unfair or frivolous controversion finding, a penalty for late paid compensation and interest for her 2001 work injury. She described the nature of the injury or illness as joint pains and nerve damage when an attic ladder fell on her which "caused damages, yrs [sic] of stress an [sic] medicines numerous. [sic] that affected my body along with injury!" The reason Employee provided for filing the claim was, "injury at work caused permanent total disability and I Terry M Parsons on disability because of injury that happened on the job 2001. Also new findings from injury neck damage, affected by body." (Claim for Workers' Compensation Benefits, September 8, 2020).

26) On October 5, 2020, Employer denied Employee's September 8, 2020 claim and all benefits based on *res judicata*. (Controversion Notice, October 5, 2020; Answer, October 5, 2020). It requested Employee's September 8, 2020 claim be dismissed based upon *res judicata*. (Petition, October 5, 2020). Employer requested an order for payment or reimbursement of attorney's fees and costs incurred for defending against Employee's September 8, 2020 claim. It contends Employee frivolously attempted to litigate her claim after her claims for benefits were denied twice previously, both of which were upheld by the Commission and the Supreme Court. (Petition, October 5, 2020).

27) On October 14, 2020, at a prehearing conference, Employee was informed she was responsible for obtaining, filing with the board and serving on Employer the medical opinions she intended to rely on to prove her claim. She was directed to contact her physician's office to obtain copies of her medical records in order to file them with the board and serve them on Employer. Employee was advised to obtain a medical opinion regarding issues relating to her claims, including causation, prior to a hearing on her claim. (Prehearing Conference Summary, October 14, 2020).

28) On November 2, 2020, Employee requested a hearing on her September 8, 2020 claim. She signed a sworn statement that she had completed necessary discovery, obtained necessary evidence and was fully prepared for a hearing on the issues in her claim. (ARH, November 2, 2020).

29) On November 5, 2020, at a prehearing conference, the board designee scheduled an oral hearing on Employer's October 5, 2020 petitions to dismiss Employee's claim and for attorney's fees and costs. (Prehearing Conference Summary, November 5, 2020).

30) On November 12, 2020, Employer opposed Employee's November 2, 2020 ARH, contending it was barred by *res judicata*. (Opposition, November 12, 2020).

31) On November 30, 2020, Employee filed a letter stating:

> My name is Terry M. Parsons injured on the job in 2001 at Craig Elementary School. Heavy ladder fell from attic, badly contusion on both arms from heavy ladder. Also chest contusion related to accident not resolved. The accident caused severe pains. Severe medical condition that I deal with today. Multiple abdominal pains. Setting up trigger points, for pains all over my body. Along with fibromyalgia meds I'll always have to take shots in my hips, I had to take in Alaska, I have to have today. Also therapy which I am in right now. When it gets really bad like in Alaska I have cortisone shots. Because of trigger points and nerve damage from accident. Treatments from [orthopedics] and pains doctor on going from injury. While suffering from my injury my boss Greg Head was stressing me out on a daily basis. Also back problems and treatments on going today. Stress from all meds I had to take financial issues. Leaving my home in Alaska.
>
> . . . . Findings low back sprain not resolved. Severe pain that has been treated with meds that covered up medical problems. Along with joints in lots of pain from injury that I suffered from today along with my back problem and neck. All my injuries contributing to fibromyalgia and joint and muscle pains body pains. Sanjay Garg, M.D., told me to leave his office and gave me my money back. Because I told him my pains from work injury. Medical records will show problems in the past spilling over into my today problems. . . .
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> The accident did all over body damage. That I still suffer from today, needing on going therapy and shots. I stay a nervous [wreck] worrying about my health. The whole aspect of my well being [sic]. My financial situation in ruins. Loved my job, before the accident that caused and causing defeat over my life in so many ways. Causing me to have to leave my home in Alaska that I love also.

Along with the letter, Employee filed evidence including the 2020 medical records included above, a June 7, 2010 statement from Mara Anderson and a March 16, 2011 statement from Matthew Kingery. (Letter with Evidence, November 30, 2020).

32) On December 8, 2020, Employer cited AS 23.30.008(d), *Burke v. Raven Electric, Inc.*, 420 P.3d 1196 (Alaska 2018) and *Whaley v. Alaska Workers' Compensation Bd.*, 648 P.2d 955 (Alaska 1982) to support its request for an order granting attorney's fees and costs. It also

requested a pre-litigation screening order be issued. (Employer Hearing Brief, December 8, 2020).

33) At hearing on December 15, 2020, Employee contended her prior claims were unfairly denied and she deserves justice because she was injured at work. She contended she knew her whole body was injured but did not know the extent of the injuries until recently because she needs more medical treatment. Employee contended her ongoing complaints and symptoms, which have worsened over time, are related to her work injury and she is unable to work due to her work injury. She contended the newly discovered medical evidence proves her claim and that the prior claims were unfairly denied. Employee opposed a pre-litigation screening order because her prior claims were unfairly denied and her claim is supported by evidence. She contends it would be unfair to require her to pay Employer's attorney's fees because she believes her claim is supported by evidence and she cannot afford to pay them. (Employee).

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;
> . . . .
>
> (4) hearings in workers' compensation cases shall be impartial and fair to all parties and that all parties shall be afforded due process and an opportunity to be heard and for their arguments and evidence to be fairly considered.

The board may base its decision on not only 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).

One component of due process is that parties be given advance notice of the issues to be decided at a hearing. *Blaufuss v. Ball*, 305 P.3d 281 (Alaska 2013). The crux of due process is the opportunity to be heard and the right to adequately represent one's interest. *Matanuska Maid,*

Inc. v. State, 620 P.2d 182, 192 (Alaska 1980). The board's authority to hear and determine questions with respect to a claim is limited to the questions raised by the parties or the agency upon notice given to the parties. *Simon v. Alaska Wood Products*, 633 P.2d 252, 256 (Alaska 1981). While the actual content of the notice is not dispositive in administrative proceedings, the parties must have adequate notice so they can prepare their cases: "The question is whether the complaining party had sufficient notice and information to understand the nature of the proceedings." *Groom v. State, Department of Transportation*, 169 P.3d 626, 635 (Alaska 2007) (quoting *North State Tel. Co. v. Alaska Pub. Util. Comm'n.*, 522 P.2d 711, 714 (Alaska 1974).

> **AS 23.30.008. Powers and duties of the commission.** . . . .
>
> (d) In an appeal, the commission shall award a successful party reasonable costs and, if the party is represented by an attorney, attorney fees that the commission determines to be fully compensatory and reasonable. However, the commission may not make an award of attorney fees against an injured worker unless the commission finds that the worker's position on appeal was frivolous or unreasonable or the appeal was taken in bad faith.

In *Whaley*, the Supreme Court construed Appellate Rule 508(e) to require a finding by the appellate court granting attorneys' fees to an employer-defendant that the claimant's appeal was frivolous. In *Burke*, the Court held an appeal must have no basis in law or fact to be considered frivolous or unreasonable to entitle an opposing party to an award of attorney fees in a workers' compensation appeal.

> **AS 23.30.250. Penalties for fraudulent or misleading acts; damages in civil actions.** . . . .
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> (b) If the board, after a hearing, finds that a person has obtained compensation, medical treatment, or another benefit provided under this chapter, or that a provider has received a payment, by knowingly making a false or misleading statement or representation for the purpose of obtaining that benefit, the board shall order that person to make full reimbursement of the cost of all benefits obtained. Upon entry of an order authorized under this subsection, the board shall also order that person to pay all reasonable costs and attorney fees incurred by the employer and the employer's carrier in obtaining an order under this section and in defending any claim made for benefits under this chapter. . . .

In *Robertson v. American Mechanical, Inc.*, 54 P.3d 777, 779 (Alaska 2002), the Supreme Court held *res judicata*, or claim preclusion, applies to workers' compensation cases; however it is not always applied as rigidly in administrative as in judicial proceedings. *Id*. at 779-80. When applicable, *res judicata* precludes a subsequent suit between the same parties asserting the same claim for relief when the matter raised was, or could have been, decided in the first suit. *Id*. at 780. Application of the principle requires the subject issue to be identical to that already litigated and requires a final judgment on the merits. *Id*.

Black's Law Dictionary, Fifth Edition, defines "dismissal with prejudice" as, "An adjudication on the merits, and final disposition, barring the right to bring or maintain an action on the same claim or cause. It is *res judicata* as to every matter litigated."

In *DeNardo v. Maassen*, 200 P.3d 305 (Alaska 2009), the Court upheld the superior court's pre-litigation screening order, after reviewing it for abuse of discretion, stating that such an order would be affirmed only if it is narrowly tailored and based on adequate justification in the record. The screening order upheld by the Court stated that permission to file new complaints against the named defendants would only be granted if:

> (a) the complaint does not restate a cause of action that has already been asserted or could have been asserted in a prior case against the same parties; and
>
> (b) the complaint is definitive, detailed, and legally sufficient to survive a motion to dismiss.

A third requirement in the original order, that the complainant submit proof that any court ordered sanctions and awards of attorney fees owed to the named defendants had been paid, was stricken as insufficiently narrowly tailored. *DeNardo* used two decisions of the Ninth Circuit Court of Appeals to form its analysis for reviewing screening orders. In *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, (Cal. 2007), the claimant had been declared a "vexatious litigant" in the District Court, limiting his access to the courts based on a five-factor analysis of:

> (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of

> prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

In *Molski v. Mandarin Touch Restaurant*, 347 F.Supp.2d 860 (Cal. 2004), the court found that "abuse of discretion" was the proper standard for such a review, citing *De Long v. Hennessey*, 912 F.2d 1144, 1147 (Cal. 1990). *De Long* recognized that pre-filing orders should rarely be filed, as they are an extreme remedy only to be used in exigent circumstances, particularly against an unrepresented claimant, and noted that a decision issuing such an order should be supported by adequate notice, limited scope, a record showing the numerous or abusive filings, and substantive findings of frivolousness. *Id*. at 1147-49.

> **8 AAC 45.070. Hearings.**
> . . . .
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> (g) Except when the board or its designee determines that unusual and extenuating circumstances exist, the prehearing summary, if a prehearing was conducted and if applicable, governs the issues and the course of the hearing.
> . . . .

ANALYSIS

1) Should Employer's October 5, 2020 petition to dismiss Employee's September 8, 2020 claim be granted?

The doctrine of *res judicata* bars the re-litigation of a claim that was, or could have been, raised in a prior case between the same parties. The doctrine applies when (1) the prior case is the subject of a final judgment; (2) the court issuing the judgment had jurisdiction; and (3) the case involved the same parties and the same cause of action. *Robertson*.

Employee's prior claims sought PTD and other benefits, the same benefits sought in the September 8, 2020 claim. *Parsons I* was a final decision on the merits of her prior claims, which was denied. The Commission affirmed *Parsons I* in *Parsons II*. Only the Commission or the Supreme Court can reconsider or reverse *Parsons II*. *Parsons III* was a final decision on the Employee's petition to reopen her case which was denied. The Commission affirmed *Parsons*

III in *Parsons IV* and the Supreme Court affirmed. Thus, there was a final judgment. The same parties are involved as Employee and Employer were involved in the past litigation. Employee was provided a full and fair opportunity to litigate the 2011 claim. She was also provided a full and fair opportunity to present new evidence with her September 8, 2020 claim. Employee filed evidence she contended supported her claim, requested a hearing on her claim and signed a sworn statement she completed necessary discovery, obtained necessary evidence and was fully prepared for a hearing on her claim. The statements from Ms. Anderson and Mr. Kingery were previously filed and considered. The new medical evidence Employee submitted for her September 8, 2020 claim failed to address whether her continuing pain complaints were caused by her work injury and whether her inability to work was due to the work injury. She failed to offer a new theory of causation for her work injury and failed to provide new evidence showing a clear error in the earlier decisions. Because *res judicata* bars Employee from filing another request for benefits for her 2001 work injury, Employee's September 8, 2020 claim will be dismissed with prejudice. *Black's*. Employer's October 5, 2020 petition to dismiss Employee's September 8, 2020 claim should be granted. An order dismissing her September 8, 2020 claim with prejudice will be issued.

2) Should the issue of a pre-litigation screening order be decided at this time?

Employer contends a pre-litigation screening order should be issued under *DeNardo* and *Molski*. The prehearing conference summary governs issues for hearing. 8 AAC 45.070(g). The November 5, 2020 prehearing conference summary set Employer's October 5, 2020 petitions to dismiss Employee's claim and for attorney's fees and costs as the issues to be resolved. Employer's October 5, 2020 petitions did not request a pre-litigation screening order. Employer first raised the issue of pre-litigation screening order for the first time in its December 8, 2020 hearing brief, providing Employee seven days' notice for the hearing (December 8, 2020 + 7 days = December 15, 2020).

Due process requires advance notice of the issues to be decided at a hearing. *Blaufuss*. Seven days' notice to a pro se litigant on the issue of a pre-litigation screening order is not sufficient as it is a complicated issue and an extreme remedy. *Rogers & Babler*; *Blaufuss*; *Molski*. Employer's hearing brief failed to provide Employee, a *pro se* litigant, sufficient notice. *Groom*.

Deciding Employer's request would violate Employee's due process rights because she must be provided a full opportunity to be heard and adequately represent her interest. AS 23.30.001(1), (4); *Simon*; *Matanuska Maid, Inc*. Employer's request for a pre-litigation screening order will not be considered at this time. 8 AAC 45.070(g).

3) Should Employer's October 5, 2020 petition for attorney's fees and costs be granted?

Employer contends it should be awarded attorney's fees and costs in defending against Employee's September 8, 2020 claim because it lacked a basis in law or fact. It relied upon statutes and case law permitting an award of attorney's fees and costs to an employer when a case has been appealed to an appellate court or the Commission to support its request. However, statutes and case law permitting an appeal court or the Commission to award attorney's fees and costs are not applicable to claims before the panel. AS 23.30.008(d); *Whaley*; *Burke*. The only provision in the Act for awarding attorney's fees to an employer against an injured worker appearing before the panel is AS 23.30.250(b), when fraud on the part of the injured worker was demonstrated. Employer has not accused Employee of fraud. Therefore, no attorney's fees and costs award may be ordered against Employee. Employer's October 5, 2020 petition for attorney's fees and costs should not be granted and an order denying it will be issued.

CONCLUSIONS OF LAW

1) Employer's October 5, 2020 petition to dismiss Employee's September 8, 2020 claim should be granted.
2) Employer's request for a pre-litigation screening order should not be decided at this time.
3) Employer's October 5, 2020 petition for attorney's fees and costs should not be granted.

ORDER

1) Employer's October 5, 2020 petition to dismiss Employee's September 8, 2020 claim is granted.
2) Employee's September 8, 2020 claim is dismissed with prejudice.
3) Employer's October 5, 2020 petition for attorney's fees and costs is denied.

Dated in Juneau, Alaska on January 8, 2021.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Kathryn Setzer, Designated Chair

/s/
Christina Gilbert, Member

/s/
Bradley Austin, 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 TERRY PARSONS, employee / claimant v. CRAIG CITY SCHOOL DISTRICT, employer; ALASKA MUNICIPAL LEAGUE JOINT INSURANCE ASSOCIATION, insurer / defendants; Case No. 200111621; dated and filed in the Alaska Workers' Compensation Board's office in Juneau, Alaska, and served on the parties by certified U.S. Mail, postage prepaid, on January 8, 2021.

/s/
Krystal Gray, Workers' Compensation Tech