

ALASKA WORKERS' COMPENSATION BOARD



P.O. Box 115512

Juneau, Alaska 99811-5512

DAVID MITCHELL,)	
)	
Employee,)	
Claimant,)	INTERLOCUTORY
)	DECISION AND ORDER
v.)	
)	AWCB Case No. 202304290
BERING STRAIT SCHOOL DISTRICT,)	
)	AWCB Decision No. 25-0008
Employer,)	
and)	Filed with AWCB Fairbanks, Alaska
)	on February 11, 2025
ALASKA PUBLIC ENTITY)	
INSURANCE,)	
)	
Insurer,)	
Defendants.)	

Bering Strait School District's and Alaska Public Entity Insurance's December 19, 2024 petition for an Second Independent Medical Evaluation (SIME) was heard on the written record in Fairbanks, Alaska on January 23, 2025, a date selected on December 20, 2024. The December 19, 2024 petition gave rise to this hearing. David Mitchell (Employee) represented himself. Attorney Colby Smith represented Bering Strait School District and Alaska Public Entity Insurance (Employer). The record closed at the hearing's conclusion on January 23, 2025.

ISSUES

As a preliminary matter, Employee seeks to strike Employer's medical evaluators' (EME) reports from the evidentiary record because they are "very unfair," and he contends they were written for the sole purpose of denying him benefits. He contends the reports are unreliable

because the evaluations were performed too long after the injuries occurred, because the EME physicians had incomplete medical records, and because the EME physicians did not perform thorough physical examinations. Employee further contends that the EME physicians misrepresented the facts surrounding his injuries and the facts do not support the EME physicians' diagnosis and opinions.

Employer opposes its reports being stricken because the reports are relevant, admissible evidence that clearly relates to Employee's injury and his claims for time-loss and medical benefits. It contends that it is the Board's prerogative to make findings on credibility and to determine what weight the EME reports should be afforded and points out that Employee has a right to cross-examine the EME physicians, which is something he has not yet requested.

1) Should the EME reports be stricken from the record?

The parties agree that a second independent medical evaluation (SIME) should be undertaken with an orthopedist and a dentist, however Employee contends the SIME panel should also include a neurologist because an orthopedist does not "deal with" a brain injury but a neurologist does.

Employer contends there is no neurological dispute between Employee's providers and its medical evaluators, so a neurological SIME is not warranted. Instead, it contends Employee is requesting additional medical specialists to increase the costs of litigation in the hope of obtaining favorable medical evidence for his position.

2) Should the SIME panel include a neurologist?

FINDINGS OF FACT

A preponderance of the evidence establishes the following facts and factual conclusions:

1) On November 14, 2021, Employee slipped and fell, injuring his neck, back, shoulder and leg, during his employment as a teacher in Savoonga, Alaska. (First Report of Injury, March 31, 2023).

2) On November 16, 2021, Employee presented to Angala Torres, M.D., and explained he had fallen from house steps two days earlier, hit his head on the ground and injured his right lower leg. He complained of memory difficulty, dizziness, nausea, occasional blurry vision and headache. Employee thought he might have lost consciousness when he fell. He wanted a doctor's note so he could leave St. Lawrence Island and get a further workup. Employee refused to have his vitals and measurements taken and refused a physical examination. Dr. Torres assessed concussion and leg injury and provided Employee with a letter recommending travel to a hospital with an emergency department and computed tomography (CT) capability. (Torres chart notes, November 16, 2021). Her letter further stated she had diagnosed Employee with concussion, rotator cuff injury, multiple bruises and loose dental work. (Torres letter, November 16, 2021).

3) On November 20, 2021, Employee presented to the Emergency Department (ED) at Cedars Sinai Medical Center in Los Angeles, California. He complained of headache, nausea, memory difficulties, and right shoulder and left leg pain. Employee's head showed no external signs of trauma. He was alert and oriented to person, place and time during a neurological exam, and no focal deficit, no cranial nerve deficit, no sensory deficit and no motor weakness was found. A brain CT showed no abnormalities and was interpreted as normal. Right shoulder and left tibia fibula x-rays showed no fractures. Concussion with loss of consciousness, multiple contusions and acute pain of right shoulder were diagnosed. Employee was prescribed Naproxen for pain, and Zofran for nausea and vomiting, and advised to follow up with Orthopedics. (ED report, November 20, 2021).

4) On October 11, 2022, Employee presented to Jemmilyn Stearns, PA-C, to establish care as a new patient. He complained of neck pain, right shoulder pain, left leg numbness and headaches. PA-C Stearns referred Employee for neurological and orthopedic evaluations. (Stearns chart notes, October 11, 2022).

5) On October 25, 2022, Shahab Mahboubian, D.O., evaluated Employee's right shoulder and left leg. He diagnosed right shoulder strain, right shoulder impingement syndrome and left leg pain, and ordered a right shoulder magnetic resonance imaging (MRI) study and physical therapy. (Mahboubian chart notes, October 25, 2022).

6) On November 25, 2022, a right shoulder MRI was suggestive of adhesive capsulitis. (Imaging report, November 25, 2022).

- 7) On December 15, 2022, Employee underwent a neurological evaluation for headache and left leg paresthesia with Rushmi Reehal, PA-C, who prescribed Gabapentin and ordered a brain MRI and electromyography (EMG) studies. (Reehal chart notes, December 15, 2022).
- 8) On January 9, 2023, a lumbar spine MRI showed a broad-based central bulge and moderate facet arthropathy at L4-5, and spondylolisthesis and a diffuse bulge contributing to moderate to severe foraminal narrowing at L5-S1, for which clinical correlation was recommended. A brain MRI conducted that same day showed no edema or hemorrhage, no evidence of a intracranial space occupying lesion, and mild baseline microvascular ischemic disease. (Imaging reports, January 9, 2023).
- 9) On January 12, 2023, Employee saw Behzad Souferzadeh, D.O., to follow-up on his right shoulder MRI. Dr. Souferzadeh diagnosed right shoulder adhesive capsulitis. (Souferzadeh chart notes, January 12, 2023).
- 10) On January 27, 2023, Employee's EMG study was interpreted as normal for both lower limbs. "There is no electrodiagnostic evidence of generalized peripheral neuropathy or lumbar radiculopathy," the report states. (EMG report, January 27, 2023).
- 11) On February 22, 2023, Employee returned to PA-C Stearns "for a doctor's note regarding the reason why he has been unable to go back to work due to his injuries from the fall while working as an independent contractor." Employee added "that he has had to get teeth implants and bone grafting due to his fall as well." PA-C Stearns added a diagnosis of "Accident while engaged in work-related activity," and provided Employee with a note. She also wrote that Employee would require orthopedic medical clearance to go back to work. (Stearns chart notes, February 22, 2023).
- 12) On March 13, 2023, Employee followed-up with PA-C Reehal, who reviewed Employee's lumbar MRI and EMG studies. PA-C Reehal ordered an electroencephalogram (EEG) and encephalopathy labs. He recommended physical therapy and for Employee to continue Gabapentin. (Reehal chart notes, March 13, 2023).
- 13) On July 25, 2023, Employee sought to "correct the injuries reported," which he contended should include a nerve injury to his leg, head trauma, dental injuries and concussion. (Petition, July 25, 2023).
- 14) On November 30, 2023, Kal Klass, D.D.S., performed an EME. He found most of Employee's handwritten dental chart notes were illegible and "below the standard of care for

diagnostic purposes,” and wrote that the notes would have to be transcribed for “any kind of a thorough evaluation.” Dr. Klass also noted that Employee’s refusal of a physical examination with Dr. Torres on November 16, 2021 prevented a thorough comparison of his pre- and post-injury conditions. Dr. Klass diagnosed bruxism and clenching symptoms and no temporomandibular joint (TMJ) arthralgia or TMJ dislocation. “From the sparsely legible notes,” he concluded Employee had an excessive amount of dentistry completed prior to the work injury, including root canal treatment and large fillings on teeth numbers 23 and 30; fillings on teeth number 3, 4, 5, 6, 11, 12, 14, 18, 27, 28; crowns placed on teeth numbers 7, 8, 9, and 10 on December 31, 2019; crowns placed on teeth numbers 29 and 30 on October 23, 2021, and then crowns placed again on teeth numbers 6, 7, 8, 9, 10, and 11 on November 6, 2022. Dr. Klass opined the excessive amount of dentistry performed on Employee and related bite adjustments affected Employee’s TMJ, and extreme daytime and nighttime clenching was most likely the cause of any TMJ or mastication muscle soreness. He did not think the work injury was the substantial cause of any current condition. (Klass report, November 30, 2023).

15) On December 1, 2023, Darin Davidson, M.D., an orthopedic surgeon, performed an EME related to Employee’s neck, back, right shoulder and left leg. He diagnosed: 1) right shoulder strain attributable to the work injury; 2) possible right shoulder adhesive capsulitis not attributable to the work injury; 3) preexisting lumbar spine degenerative changes; 4) lower left extremity soft tissue injury and paresthesia related to the work injury; 5) possible head injury outside his scope of practice to comment on causality; and 6) dental injury outside his scope of practice to comment on causality. Dr. Davidson thought that Employee’s right shoulder and left lower extremity were not medically stable and further evaluation was required to determine whether the work injury was the substantial cause of those symptoms. He opined that an magnetic resonance imaging (MRI) arthrogram should be done to exclude a possible labral injury and nerve conduction studies to further evaluate left lower extremity paresthesia. Dr. Davidson did not recommend any further treatment pending review of additional studies. (Davidson report, December 1, 2023).

16) On January 30, 2024, after reviewing additional medical records, including the November 25, 2022 right shoulder MRI and the January 27, 2023 EMG study, Dr. Davidson continued to recommend an MRI arthrogram for Employee’s right shoulder since the contrast is necessary for a more detailed evaluation in labral structures. He also opined that Employee’s left leg soft

tissue injury and paresthesia were medically stable and without a ratable impairment because the nerve conduction tests showed no objective abnormalities. (Davidson addendum, January 30, 2024).

17) On February 9, 2024, in response to Employee's "numerous accusations that the entire medical records from his dentist were not submitted to Dr. Klass [for the November 30, 2023 EME]," Employer sent Dr. Klass all the dental records in Employee's possession and asked Dr. Klass to address additional questions. Dr. Klass reviewed a 21-page letter from Employee and 26 pages of dental chart notes and scanned dental radiographs, and did "not see anything new that was not in the original file." He opined that Employee's TMJ symptoms and treatment with a nightguard were due to bruxing and stress and not the work injury. (Klass addendum, March 4, 2024).

18) On March 4, 2024, Employer controverted dental, lumbar spine and left lower extremity medical treatment; temporary total disability (TTD) benefits after April 23, 2023 and permanent partial impairment (PPI) benefits based on Drs. Davidson's and Klass's EME reports. (Controversion Notice, March 4, 2024).

19) On June 17, 2024, Lynne Bell, M.D., Ph.D., a neurologist, performed an EME related to Employee's left leg numbness, cognitive changes, increased irritability, and chronic headache. She diagnosed 1) concussion with possible loss of consciousness and amnesia, mild; 2) left leg contusion/soft tissue injury, resolved; 3) degenerative changes of the lumbar spine, pre-existing; 4) reported right shoulder strain attributed to the injury; and 5) pre-existing psychological conditions and personality factors likely contributing to ongoing subjective complaints. Dr. Bell wrote that the scientific literature indicates that most individuals who have suffered from a mild concussion will experience a full neurological recovery within three months and opined that the work injury was no longer a substantial factor affecting Employee's current "clinical presentation." Employee was medically stable with no evidence of permanent impairment from the work injury and no further medical treatment was required for the mild concussion, according to Dr. Bell. (Bell report, June 17, 2024).

20) On July 1, 2024, Employer controverted neurological medical treatment, TTD, PPI and job retraining benefits based on Dr. Bell's EME. (Controversion Notice, July 1, 2024).

21) An October 17, 2024, right shoulder MRI arthrogram showed a high-grade partial thickness surface tear of the superior subscapularis tendon. (Imaging report, October 17, 2024).

22) On November 5, 2024, Employee filed a workers' compensation claim seeking a finding of unfair or frivolous controversion, explaining he had injured his left leg, right shoulder, neck, back, mouth, and had sustained head trauma. (Claim, November 5, 2024). On November 13, 2024, he filed another claim, dated November 12, 2024, seeking TTD and medical costs and again explained he had injured his left leg, right shoulder, neck, back and sustained head trauma. (Claim, November 12, 2024).

23) On November 13, 2024, after reviewing the October 17, 2024 right shoulder MRI arthrogram, Dr. Davidson opined the high-grade partial thickness tear of Employee's subscapularis tendon cannot be attributed to the work injury since it was not shown on the November 25, 2022 right shoulder MRI. (Davidson addendum, November 13, 2024).

24) On December 2, 2024 and December 4, 2024, Employer answered Employee's November 12, 2024 claim, denying medical benefits and TTD past May 14, 2023. (Answer, December 2, 2024; Amended Answer, December 4, 2024).

25) On December 19, 2024, Employer petitioned for an SIME by a dentist and orthopedist. The SIME form was signed by Employer's attorney but not Employee. (Petition, December 19, 2024; SIME Form, December 19, 2024).

26) On January 8, 2025, the parties agreed that the SIME should be undertaken with a panel including an orthopedist and a dentist. They further agreed to a written records hearing on Employee's contention that the EME reports should be stricken from the evidentiary record, and his contention that the SIME panel should include a neurologist. (Prehearing Conference Summary, January 8, 2025).

PRINCIPLES OF LAW

AS 23.30.001. Legislative intent. It is the intent of the legislature that

....

(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 workers' compensation system consists of a trade-off in which workers give up their right to sue in tort for damages for a work-related injury or death in exchange for limited but certain

benefits, and employers agree to pay the limited benefits regardless of their own fault in causing the injury or death. *Burke v. Raven Electric, Inc.*, 420 P.3d 1196, 1202 (Alaska 2018).

AS 23.30.010. Coverage. (a) 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. (a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires

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

(e) The employee shall, after an injury, at reasonable times during the continuance of the disability, if requested by the employer . . . submit to an examination by a physician or surgeon of the employer's choice

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

The Alaska Workers' Compensation Appeals Commission in *Bah v. Trident Seafoods Corp.*, AWCAC Dec. No. 073 (February 27, 2008) addressed the Board's authority to order an SIME under §095(k). *Bah* stated in *dicta*, that before ordering an SIME it is necessary to find the medical dispute is significant or relevant to a pending claim or petition. *Bah* said when deciding whether to order an SIME, the Board considers three criteria, though the statute requires only one:

- 1) Is there a medical dispute between Employee's physician and an EME?
- 2) Is the dispute significant? and

- 3) Will an SIME physician's opinion assist the Board in resolving the disputes?
(*Id.*).

In *Seybert v. Cominco Alaska Exploration*, 182 P.2d 1079 (Alaska 2008) the Alaska Supreme Court held the board correctly determined that, because the Act creates an adversarial system, and because the parties' interests were in conflict, there was no basis for a fiduciary relationship between the injured worker and the workers' compensation insurer. While regulation imposes some duties on a workers' compensation insurer towards a claimant, it does not impose the duties of loyalty and disavowal of self-interest that are the hallmarks of a fiduciary's role. *Id.* at 1090.

AS 23.30.110. Procedure on claims. . . . (g) An injured employee claiming or entitled to compensation shall submit to the physical examination by a duly qualified physician which the board may require.

AS 23.30.122. Credibility of witnesses. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded a witness's testimony, including medical testimony and reports, is conclusive even if the evidence is conflicting or susceptible to contrary conclusions. The findings of the board are subject to the same standard of review as a jury's finding in a civil action.

AS 23.30.135. Procedure before the board. (a) . . . The board may make its investigation or inquiry or conduct its hearing in the manner by which it may best ascertain the rights of the parties. . . .

AS 23.30.155. Payment of compensation. . . . (h) The board may upon its own initiative at any time in a case in which payments are being made with or without an award, where right to compensation is controverted, or where payments of compensation have been increased, reduced, terminated, changed, or suspended, upon receipt of notice from a person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been increased, reduced, terminated, changed, or suspended, 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.

Section 095(k) and §110(g) are procedural in nature, not substantive, for the reasons outlined in *Deal v. Municipality of Anchorage*, AWCB Dec. No. 97-0165 (July 23, 1997). Under §135(a) and §155(h), wide discretion exists to consider any evidence available when deciding whether to order an SIME to assist in investigating and deciding medical issues in claims, to best "protect the rights

of the parties.” Under §110(g) the Board may order an SIME when there is a significant “gap” in the medical evidence, or a lack of understanding of the medical or scientific evidence prevents the Board from ascertaining the rights of the parties and an SIME opinion would help. *Bah*.

An SIME’s purpose is to have an independent medical expert provide an opinion about a contested issue. *Seybert* at 1097. The decision to order an SIME rests in the discretion of the Board, even if jointly requested by the parties. *Olafson v. State Department of Transportation*, AWCAC Dec. No. 06-0301 (October 25, 2007). Although a party has a right to request an SIME, a party does not have a right to an SIME if the Board decides one is not necessary for the Board’s purposes. *Id.* at 8. An SIME is not a discovery tool exercised by the parties; it is an investigative tool exercised by the Board to assist it by providing a disinterested opinion. *Id.* at 15.

AS 23.30.185. Compensation for temporary total disability. In case of disability total in character but temporary in quality, 80 percent of the injured employee’s spendable weekly wages shall be paid to the employee during the continuance of the disability. Temporary total disability benefits may not be paid for any period of disability occurring after the date of medical stability.

8 AAC 45.052. Medical Summary. (a) A medical summary . . . listing each medical report in the claimant’s or petitioner’s possession which is or may be relevant to the claim or petition, must be filed with a claim or petition. . . .

(d) After a claim or petition is filed, all parties must file with the board an updated medical summary form within five days after getting an additional medical report.
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8 AAC 45.092. Second independent medical evaluation.

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(c) . . . a party filing an affidavit of readiness for hearing must attach an updated medical summary, on form 07-6103, if any new medical reports have been obtained since the last medical summary was filed.

(1) If the party filing an affidavit of readiness for hearing wants the opportunity to cross-examine the author of a medical report listed on the medical summaries that have been filed, the party must file with the board, and serve upon all parties, a request for cross-examination

(e) If the parties do not stipulate to a physician not on the board's list to perform the evaluation, the board or its designee will select a physician to serve as a second independent medical examiner to perform the evaluation. . . .

AS 23.30.107. Release of Information. (a) Upon written request, an employee shall provide written authority to the employer, carrier, rehabilitation specialist, or reemployment benefits administrator to obtain medical and rehabilitation information relative to the employee's injury. . . .

Employers have a right to thoroughly investigate workers' compensation claims to verify information provided, properly administer claims, and effectively litigate disputed claims. *Cooper v. Boatel, Inc.*, AWCBC Decision No. 87-0108 (May 4, 1987).

8 AAC 45.120. Evidence. . . . (e) Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. . . .

"[R]elevant evidence means evidence having *any tendency* to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." *Granus v. Fell*, AWCBC Dec. No. 99-0016 (January 20, 1999) (emphasis in original) (citing Alaska Evid. R. 401).

ANALYSIS

1) Should the EME reports be stricken from the record?

The workers' compensation system consists of a trade-off in which workers give up their right to sue in tort for damages for a work-related injury or death in exchange for limited but certain benefits, and employers agree to pay the limited benefits regardless of their own fault in causing the injury or death. *Burke*. Workers' compensation is an adversarial system, *Seybert*, and employers have a right to thoroughly investigate workers' compensation claims to verify information provided, properly administer claims, and effectively litigate disputed claims. *Cooper*. This includes the right to have an injured worker examined by physicians of the employer's choice. AS 23.30.095(e). Employer exercised this right and had Employee evaluated by Drs. Klass, Davidson and Bell, who opined on such issues as the causes of Employee's disability and his need

for medical treatment, whether he required further treatment and whether his work-related injuries were medically stable. Their reports were required to be filed as medical evidence. 8 AAC 45.052(a), (d). Employee seeks to have these reports stricken from the record.

Any relevant evidence is admissible in workers' compensation cases. 8 AAC 45.120(e). Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. *Granus*. Employee has claimed medical and TTD benefits and may claim additional benefits in the future. Consequently, issues such as the causes of Employee's disability and his need for medical treatment, AS 23.30.010(a), whether his injuries require further treatment, AS 23.30.095(a), and whether his injuries are medically stable, AS 23.30.185, are facts of consequence to his benefits claim. In other words, the opinions of Drs. Klass, Davidson and Bell are relevant, admissible evidence, and Employer has the right to have its evidence fairly considered. AS 23.30.001(4). The EME reports will not be stricken from the record.

Meanwhile, Employee's contentions that the reports are unreliable because the evaluations were performed too long after the injuries occurred, because the EME physicians had incomplete medical records, and because the EME physicians did not perform thorough physical examinations, do not impact the admissibility of reports, but rather affect the weight they should be afforded. AS 23.30.122. Employee is encouraged to seek the assistance of a workers' compensation technician in completing requests for cross-examination of the EME physicians so he may explore his concerns with their reports. 8 AAC 45.052(c)(1). He is additionally assured that he will be given an opportunity to verify that the medical records are complete before they are sent to the SIME physicians. 8 AAC 45.092(h)(3).

2) Should the SIME panel include a neurologist?

Employee has complained of headache and memory difficulty since the work injury. His treatment recommendations at the last visit with his neurologist on March 13, 2023, included an EEG study, encephalopathy labs, physical therapy and continued Gabapentin. Employee has also not been released to work by his treating physicians. Meanwhile, Employer's neurological

evaluator, Dr. Bell, opined Employee is medically stable from the work injury, no further treatment is required, and the work injury is no longer a substantial factor of his “clinical presentation.” Thus, disputes exist at least with respect to causation, medical treatment, and medical stability. AS 23.30.095(k). Since Employee has claimed medical costs and TTD benefits, these disputes are significant because their resolution will determine his entitlement to, and Employer’s liability for, valuable benefits. *Bah*. An SIME by an independent neurologist will assist a Board panel in resolving these disputes and ascertaining the parties’ rights. *Olafson*. The SIME panel will include a neurologist. 8 AAC 45.092(e).

CONCLUSIONS OF LAW

- 1) The EME reports should not be stricken from the record.
- 2) The SIME panel should include a neurologist.

ORDERS

- 1) Employer’s December 19, 2024 petition for an SIME is granted.
- 2) An SIME will be performed by an orthopedist, a dentist and a neurologist.
- 3) The Division is directed to schedule a prehearing conference at the earliest opportunity and the appropriate designee will begin the SIME process forthwith.

Dated in Fairbanks, Alaska on February 11, 2025.

ALASKA WORKERS’ COMPENSATION BOARD

/s/
Robert Vollmer, Designated Chair

/s/
Lake Williams, Member

PETITION FOR REVIEW

A party may seek review of an interlocutory or 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 DAVID MITCHELL, employee / claimant v. BERING STRAIT SCHOOL DISTRICT, employer; ALASKA PUBLIC ENTITY INSURANCE, insurer / defendants; Case No. 202304290; dated and filed in the Alaska Workers' Compensation Board's office in Fairbanks, Alaska, and served on the parties by certified U.S. Mail, postage prepaid, on February 11, 2025.

/s/
Whitney Murphy, Office Assistant