ALASKA WORKERS' COMPENSATION BOARD

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

CURTIS STEVEN FOSTER, Employee, Claimant, v. NEW HORIZONS TELECOM, INC., Employer, and ALASKA NATIONAL INSURANCE, Insurer, Defendants.	)	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 202203868 AWCB Decision No. 25-0014 Filed with AWCB Anchorage, Alaska on February 27, 2025

Curtis Steven Foster's (Employee) September 27, 2024 petition for a second independent medical evaluation (SIME) was heard on the written record on February 26, 2025, in Anchorage, Alaska, a date selected on January 22, 2025. A January 16, 2025 email gave rise to this hearing. Attorney Adam Franklin represented Employee. Attorney Rebecca Holdiman-Miller represented New Horizons Telecom, Inc. and Alaska National Insurance (Employer). The record closed at the hearing's conclusion on February 26, 2025.

ISSUE

Employee contends there is a significant medical dispute between Employee's attending physicians and an employer's medical evaluator (EME). He contends this warrants an SIME.

Employer did not oppose Employee's petition for an SIME and agreed to an SIME at a prehearing conference. However, the parties failed to submit a mutually signed SIME form agreeing to the body parts at issue, the specialties required, and the medical disputes.

Shall this decision order an SIME?

FINDINGS OF FACT

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

1) On February 2, 2015, Employee underwent a left knee revision total knee replacement. (Mark Spangehl, MD, Operative Report, February 2, 2015).

2) On March 8, 2022, Employer reported Employee injured his left shoulder and knee on March 6, 2022, when he hopped off a trailer, slipped on ice, and landed on his left shoulder and knee. (First Report of Injury, March 8, 2022).

3) On May 25, 2022, Employee followed up regarding his March 6, 2022 left proximal humerus and glenoid fracture. He had been doing physical therapy and his shoulder range of motion was greatly improved. Since discontinuing using the left arm sling, Employee noticed left elbow pain, a snapping sensation over the lateral aspect of his left elbow, and he was unable to fully extend his left elbow. X-rays of Employee's left elbow demonstrated significant osteoarthritic changes particularly in the lateral view. He was assessed with left elbow stiffness and osteoarthritis and resolving left proximal humerus fracture, mostly likely left shoulder rotator cuff tear and possible labral injury. A computed tomography (CT) of Employee's left shoulder and elbow were ordered. (Iva M. Milgrim, PAC, record, May 25, 2022).

4) On June 17, 2022, Employee decided to move forward with a left shoulder diagnostic arthroscopy with the intention of repairing any tears, and a left elbow steroid injection. (Milgram report, June 17, 2022).

5) On July 16, 2022, Eric Hofmeister, MD, an orthopedic surgeon, examined Employee for an EME and diagnosed a left shoulder inferior glenoid intraarticular fracture and full thickness rotator cuff tear with the substantial cause being the work injury; longstanding left elbow osteoarthritis with the substantial cause not being the work injury; left elbow loose body with the substantial cause being the work injury; and left anterior knee contusion, resolved, with the substantial cause being the work injury. He recommended a corticosteroid injection into the radial capitellar joint

and physical therapy. If that failed to relieve Employee's left elbow symptoms, a left elbow arthroscopy or arthrotomy and debridement would be appropriate followed by physical therapy twice a week for ten weeks. (Hofmeister EME report, July 16, 2022).

6) On December 27, 2023, Employee underwent a left cubital tunnel release with transposition and left elbow arthrotomy with removal of loose bodies, capsulectomy, and bone spur removal for contracture release. (Dann Laudermilch, MD, Operative Report, December 27, 2023).

7) On April 30, 2024, Employee followed up regarding his left elbow surgery and reported he was happy with his range of motion because he could wash his hair, which he could not do before. The numbness and tingling had resolved and he had better use of his hand. Employee felt happy with his progress and comfortable going back to work without restrictions. His left elbow had minimal swelling without signs or symptoms of infection. Bailey Green, PA, believed Employee could return to work without restrictions at that time and referred him for a PPI rating. (Green report, April 30, 2024).

8) On May 18, 2024, Employee went to the emergency room for left knee and elbow pain and warmth. He started feeling slightly dizzy at the beginning of the week, which forced him to leave work early. On Wednesday, his dizziness was getting better, but on Thursday, he started to have left elbow pain, which had since increased. His left knee pain started that day. Employee was unable to demonstrate full range of motion in his left elbow and had some dry facial skin, "consistent with facial cellulitis in the malar folds" and "generally poor dentition." His left elbow was hot to the touch and had localized swelling. Employee's right knee was also hot and edematous but had full range of motion. His left elbow was aspirated. The aspirant was cloudy and slightly yellow and was sent for culture. (Jennifer E. Dow, MD, report, May 18, 2024).

9) On May 18, 2024, Employee underwent a left elbow arthrotomy for drainage of infection. (Mary Fox, MD, Operative Report, May 18, 2024).

10) On May 19, 2024, Stefan Zlatanov, MD, noted "Concern for Multijoint [sic] septic arthritis in left elbow and left knee with possible source as chronic diabetic foot ulcer of right greater toe." He also included two other possible infectious points of entry including the December elbow surgery and poor dentition. (Zlatanov reports, May 19, 2024).

11) On May 20, 2024, Employee underwent a left revision total knee replacement. (Bryan Haughom Operative Report, May 20, 2024).

12) On June 27, 2024, Dr. Fox responded to questions from Employer's medical case manager and stated she was unable to determine if the work injury was the substantial cause of Employee's condition, disability, or need for ongoing treatment. She recommended Employee follow up with Dr. Laudermilch and an EME. (Fox response, June 27, 2024).

13) On June 27, 2024, Dr. Hofmeister reviewed additional medical records and opined the substantial cause of Employee's disability "in May 2024 moving forward was" Employee's sepsis:

> The etiology of the sepsis is not clearly defined in the medical records and the source may have never been completely identified but the two most likely sources included poor oral dentition and/or a nonhealing right great toe diabetic ulcer. A less likely source of infection would be a facial cellulitis.
>
> The expected period of disability for the infection is not only the inpatient hospitalization but up to six weeks of antibiotics.
>
> The expected period of disability for his elbow that underwent an open arthrotomy and washout would be approximately 8-12 weeks, depending on the amount of stiffness following the surgical procedure.
>
> The expected period of disability for his left total knee arthroplasty would be at least three to four months, provided that he was cleared of any ongoing infection. (Hofmeister EME report, June 27, 2024).

14) On July 9, 2024, Employer denied "all benefits related to the sepsis diagnosis in May 2024 including but not limited to medical benefits and temporary total disability (TTD) benefits" based upon Dr. Fox's June 27, 2024 correspondence and Dr. Hofmeister's June 27, 2024 EME report. (Controversion Notice, July 9, 2024).

15) On July 9, 2024, Employee followed up with Dr. Haughom for a post-operative visit. Employee reported continuing left knee pain. Dr. Haughom stated, "In my opinion the patient's knee infection is related to the patient's elbow infection." (Haughom report, July 9, 2024).

16) On August 8, 2021, Employee saw Dr. Spangehl, orthopedist, for evaluation of left knee pain after a recent acute deep infection in his revision left knee replacement. In 2015, Dr. Spangehl had revised Employee's left knee for fibrous fixation of an uncemented femoral component and mild malrotation of the tibial implant and Employee did well with it. Employee had left elbow surgery in December 2023, and in mid-May 2024, he developed significant increasing pain in his left elbow, and he may have developed an infected elbow bursitis. About three- or four-days following onset of the left elbow symptoms, Employee noted left knee pain. He was admitted to a hospital

in Alaska with a left septic elbow bursitis and acute periprosthetic infection of the left knee and underwent a limited debridement of the left knee with a small arthrotomy and irrigation. Two days later he underwent a more formal left knee debridement with exchange of the polyethylene insert. The "infecting organism was [methicillin-susceptible staphylococcus aureus] MSSA." Employee was treated with IV Ancef and oral rifampin, which he was on for about four weeks. He continued on the Ancef for ten weeks, and two weeks earlier he transitioned to oral antibiotics, initially Levaquin and now Bactrim. Employee continued reporting ongoing left knee pain and stiffness. He also has type-2 diabetes and had a small callus on his right great toe with a small split, which Employee showed a picture of. Dr. Spangehl stated, "Although there is a small likelihood that this could have been the source given the appearance as well as the fact that it is on the contralateral side I think it is unlikely that this would have been the source for the knee. It sounds like the septic bursitis pre dated [sic] the onset of knee pain and there is a higher likelihood that the left elbow septic bursitis likely caused his left knee infection." He recommended Employee stay on the oral antibiotics for six months, as the Alaska doctor recommended, focus on knee extension, and try pool exercises and biking. Dr. Spangehl suggested Employee check with his Alaska doctor about using Keflex or Duricef if Bactrim upsets Employee's stomach. (Spangehl report, August 8, 2024).

17) On August 21, 2024, Employee consulted with Mark Burns, DNP, an Assistant Professor of Medicine in the Division of Infectious Diseases at the Arizona Mayo Clinic for "inpatient antimicrobial management." DNP Burns noted Employee's status post primary left total knee arthroplasty (TKA) in 2013, revision in 2015, and more recent "acute hematogenous left TKA MSSA infection felt seeded from a septic left elbow bursitis." He recommended continuing "cefazolin 2 g IV q.8 hours, day 1" and "vancomycin 1.25 g IV q.12 hours, day 2." (Burns record, August 21, 2024).

18) On August 21, 2024, Dr. Haughom responded to questions from Employee's attorney:

> 1. I believe that the patient's knee prosthetic infection is related to the patient's elbow infection. As to the exact timing of when the elbow became infected, I cannot determine this with any certainty. It is possible, although unlikely that this happened at the time of surgery. What is more likely is that the patient's elbow became infected in the perioperative period, which ultimately resulted in bacteremia, sepsis, and seeding of his prosthetic joint.
> 2. To a reasonable degree of medical probability, I believe that the patient would not have required further surgery on his prosthetic joint had he not developed an infection. (Haughom responses, August 21, 2024).

19) On September 16, 2024, Employee filed a claim dated September 13, 2024, seeking TTD and permanent partial impairment (PPI) benefits, medical and transportation costs, a penalty for late paid compensation, interest, and attorney fees and costs. He stated, "Employee injured his left upper extremity in the course and scope of his employment with Employer. Employee had surgery on his left elbow in December 2023. In approximately March 2024, Mr. Foster developed sepsis following surgery to his left elbow." Under "Reason for filing claim," he wrote, "Employer denies payment of benefits related to the infection that led to sepsis despite the infection occurring during the course of treatment for a work injury." (Claim for Workers' Compensation Benefits, September 13, 2024).

20) On September 17, 2024, Employee requested an SIME because there was a "disagreement between Employer IME physician and Employee treating physicians." (Petition, September 17, 2024). He contended there is disagreement regarding causation, compensability, and medical stability between his physicians, Drs. Spangehl and Haughom in their August 8 and 21, 2024 reports, and the EME physician Dr. Hofmeister in his June 27, 2024 EME report. He requested the SIME include an orthopedist and an infectious disease specialist. He included "elbow" and "infectious disease" as the "Body Parts in Dispute." (SIME form, September 17, 2024).

21) On October 7, 2024, Employer stated it did not oppose Employee's September 17, 2024 petition for an SIME based on the current evidence. However, it opposed a hearing on the SIME issue and requested a prehearing conference to schedule deadlines, contending depositions and additional discovery are necessary prior to the SIME, which may change its position. (Response to Petition for Second Independent Medical Evaluation, October 7, 2024).

22) On October 9, 2024, Employer answered Employee's September 13, 2024 claim, admitting a PPI rating but denying all benefits related to the "May 2024 infection/sepsis/knee"; TTD benefits; medical costs which are not reasonable, necessary, related to the work injury or which are for services not performed in accordance with AS 23.30.095(c), or for which supporting documentation does not exist, or which do not comply with the usual and customary fee schedules of AS 23.30.097; transportation expenses for treatment which is not reasonable, necessary, or related to the work injury and those not supported by proper documentation; penalty; interest; and attorney fees and costs. It relied upon PAC Green's April 30, 2024 referral for a PPI rating, which implied medical stability had been attained, and her determination that Employee was capable of returning to work without restrictions. Employer also denied any and all disabilities and medical

treatment resulting from Employee's sepsis, due to an unknown bacteria, which required hospitalization, extensive treatment, surgical repair, and prolonged outpatient antibiotics. It relied upon Dr. Fox's March 6, 2022 statement that she was unable to determine if Employee's work injury was the substantial cause of any condition, disability or need for ongoing treatment and recommendation of further evaluation by Dr. Laudermilch. Employer also relied upon Dr. Hofmeister's June 27, 2024 EME report. (Amended Answer to Employee's Workers' Compensation Claim and Controversion Notice, October 9, 2024).

23) On October 9, 2024, the parties agreed to conduct an SIME and to set deadlines. The Board designee advised the parties that an SIME will not be scheduled until the mutually signed SIME form was filed with the Board, and it was due on or before December 6, 2024. Employer was directed to serve Employee the first set of SIME binders by November 22, 2024; Employee was directed to review the binder and file any supplemental medical records by December 6, 2024. (Prehearing Conference Summary, October 9, 2024).

24) On November 22, 2024, Employer filed SIME medical records along with an affidavit signed by its attorney stating that it includes all of the Employee's medical records at this time. (Affidavit of Review and Service of SIME Medical Records, November 22, 2024).

25) On December 6, 2024, Employee filed SIME medical records along with an affidavit signed by his attorney stating that it includes all of the Employee's medical records at this time. (Affidavit of Adam R. Franklin, December 6, 2024).

26) On December 12, 2024, Employee filed supplemental SIME medical records along with an affidavit signed by his attorney stating that it includes all of the Employee's medical records at this time. (Affidavit Regarding Supplement to SIME Medical Records Binder, December 12, 2024).

27) On December 17, 2024, Division staff informed the parties the Board needed the mutually signed SIME form. (Email, December 17, 2024).

28) On January 15, 2024, Employee's attorney emailed Division staff, and copied Employer's attorney, asking for an update regarding the status of the SIME, if something else was needed, and if the SIME had been scheduled. (Email, January 15, 2024).

29) On January 16, 2024, Division staff emailed the parties' attorneys stating a mutually signed SIME form had not been received and asked them to file it so the SIME may move forward. (Email, January 16, 2024). Division staff informed the attorneys that a written record hearing

would be scheduled if the mutually signed SIME form was not received by January 24, 2025. (Email, January 26, 2024).

30) On January 22, 2024, the Division served notice of a written record hearing on February 26, 2025. The notice stated the hearing was scheduled because a mutually signed SIME form has not been filed and briefs were due on February 19, 2025. (Hearing Notice Written Record Served, January 22, 2024).

31) Neither Employee nor Employer filed a hearing brief. (Agency record).

32) There is no infectious disease specialist on the Board's SIME list. (Bulletin 24-04, November 1, 2024).

PRINCIPLES OF LAW

> **AS 23.30.001. Legislative intent.** It is the intent of the legislature that
>
> (1) this chapter be interpreted so as to ensure . . . quick, efficient, fair, and predictable delivery of . . . benefits to injured workers at a reasonable cost to . . . employers; . . .

The Board may base its decision on not only direct testimony and other tangible evidence, but also on the its "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 23.30.095. Medical treatments, services, and examinations**. . . .
>
> (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*.).

> **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 23.30.135. 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 v. Cominco Alaska Exploration*, 182 P.3d 1079 (Alaska 2008). 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.

8 AAC 45.050. Pleadings. . . .

(f) For stipulations under this subsection,
. . . .

(2) stipulations between the parties may be made in writing at any time before the close of the record or may be made orally in the course of a hearing or a prehearing;

(3) stipulations of fact or to procedures are binding upon the parties named in the stipulation and have the effect of an order unless the board, for good cause, relieves a party from the terms of the stipulation; . . .

(4) notwithstanding any stipulation to the contrary, the board may base its findings upon the facts as they appear from the evidence, may cause further evidence or testimony to be taken, or may order an investigation into the matter as prescribed by AS 23.30.

8 AAC 45.092. Second independent medical evaluation. . . .

(e) If the parties stipulate that a physician not on the board's list may perform an evaluation under AS 23.30.095(k), the board or its designee may select a physician in accordance with the parties' agreement. 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. The board or its designee will consider these factors in the following order in selecting the physician:

(1) the nature and extent of the employee's injuries;

(2) the physician's specialty and qualifications;

(3) whether the physician or an associate has previously examined or treated the employee;

(4) the physician's experience in treating injured workers in this state or another state;

(5) the physician's impartiality; and

(6) the proximity of the physician to the employee's geographic location.

(f) If the board or its designee determines that the list of second independent medical examiners does not include an impartial physician with the specialty, qualifications, and experience to examine the employee, the board or its designee will notify the employee and employer that a physician not named on the list will be selected to perform the examination. The notice will state the board's preferred physician's specialty to examine the employee. Not later than 10 days after notice by the board or its designee, the employer and employee may each submit the names, addresses, and curriculum vitae of no more than three physicians. If both the employee and the employer recommend the same physician, that physician will be selected to perform the examination. If no names are recommended by the employer or employee or if the employee and employer do not recommend the same physician, the board or its designee will select a physician, but the selection need not be from the recommendations by the employee or employer.

(g) If there exists a medical dispute under AS 23.30.095(k),

(1) the parties may file a

(A) completed second independent medical form, available from the division, listing the dispute together with copies of the medical records reflecting the dispute, and

(B) stipulation signed by all parties agreeing

(i) upon the type of specialty to perform the evaluation or the physician to perform the evaluation; and
(ii) that either the board or the board's designee determine whether a dispute under AS 23.30.095(k) exists, and requesting the board or the board's designee to exercise discretion under AS 23.30.095(k) and require an evaluation;

(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;

(A) the completed petition must be filed timely together with a completed second independent medical form, available from the division, listing the dispute; and

(B) copies of the medical records reflecting the dispute; or

> (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
>
> > (A) the parties stipulate, in accordance with (1) of this subsection, to the contrary and the board determines the evaluation is necessary; or
> >
> > (B) the board on its own motion determines an evaluation is necessary.

ANALYSIS

Shall this decision order an SIME?

On October 9, 2024, the parties at a prehearing conference agreed to conduct an SIME and deadlines were set for SIME binders and a mutually signed SIME form. The parties submitted the SIME binders but did not submit the mutually signed SIME form. Stipulations may be made orally in the course of a prehearing conference and have the effect of an order unless a party is relieved from its terms for good cause. 8 AAC 45.050(f)(2), (3). The parties' agreement to conduct an SIME has the effect of an order. *Id*. Neither party has argued good cause to relieve either party from their agreement to conduct an SIME. The lack of a mutually signed SIME form does not constitute good cause the relieve the parties from the agreement as the panel may decide the medical disputes and the SIME specialties. 8 AAC 45.050(f)(3), (4); 8 AAC 45.092(g).

Employee sought TTD and PPI benefits and medical and transportation costs for his left elbow and sepsis and Employer controverted all benefits related to the left elbow and knee sepsis. Employee listed the medical disputes as causation, compensability, and medical stability, and requested the specialties includes an orthopedist and an infectious disease specialist. Employer has provided no comment or argument on the disputes or specialties.

Employee's physicians, Drs. Spangehl and Haughom, opined Employee's septic left elbow bursitis caused his left knee prosthetic infection, for which additional medical treatment was recommended, and that his left elbow became infected postoperatively and he would not have required left knee surgery had he not developed a left elbow infection. Dr. Hofmeister, the EME, opined the likely source of Employee's sepsis was his poor oral dentition and right greater toe ulcer and the substantial cause of his disability from May 2024 going forward was the sepsis, not the left elbow work injury. There is a dispute between Drs. Spangehl and Haughom, Employee's

physicians, and Dr. Hofmeister, the EME physician, regarding compensability, causation and medical treatment and stability. Based upon the disputes between the parties' physicians and the benefits in dispute, there are significant medical disputes between Employee's and Employer's physicians regarding causation, compensability, and medical treatment and stability regarding his left elbow and the infection he developed in his left elbow and knee. *Bah*; AS 23.30.095(k).

An SIME by an orthopedist and an infectious disease specialist, which specializes in diagnosing and treating conditions caused by bacteria like MSSA, will assist the panel in resolving these disputes and ascertaining the parties' rights. *Olafson*; *Seybert*; 8 AAC 45.092(g). An SIME shall be ordered. AS 23.30.095(k); AS 23.330.110(g); AS 23.30.135(a). Because there is no infectious disease specialist on the SIME list, a physician not on the list will be selected to perform the SIME pursuant to 8 AAC 45.092(f).

CONCLUSION OF LAW

This decision shall order an SIME.

ORDER

1) Employee's September 17, 2024 petition for an SIME is granted.
2) An SIME will be performed by an orthopedist and an infectious disease specialist. An physician from the SIME list will be selected to perform the orthopedic examination. The parties are notified there is no infectious disease specialist on the SIME list available or qualified to perform the examination under 8 AAC 45.095(e). The parties must provide the names, addresses, and curriculum vitae of infectious disease physicians in accordance with 8 AAC 45.092(f).
3) The medical disputes are causation, compensability and medical treatment and stability.
4) The body parts in dispute are Employee's left elbow and knee and the infectious disease he developed.

Dated in Anchorage, Alaska on February 27, 2025.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Kathryn Setzer, Designated Chair

/s/
Marc Stemp, Member

/s/
Bronson Frye, 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 Curtis Steven Foster, employee / claimant v. New Horizons Telecom, Inc., employer; Alaska National Insurance, insurer / defendants; Case No. 202203868; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by certified U.S. Mail, postage prepaid, on February 27, 2025.

/s/
Lisa Clemens, Workers' Compensation Technician