ALASKA WORKERS' COMPENSATION BOARD

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

JOHNNY ANDREW, Employee, Claimant, v. SILVER BAY SEAFOODS, LLC, Employer, and LIBERTY INSURANCE CORP., Insurer, Defendants.	INTERLOCUTORY DECISION AND ORDER AWCB Case No. 201810619 AWCB Decision No. 25-0052 Filed with AWCB Anchorage, Alaska on August 15, 2025

Silver Bay Seafoods, LLC's (Employer) February 12, 2025 cross-petition for a screening order was initially heard on the written record on June 24, 2025, in Anchorage, Alaska, a date selected on May 6, 2025. A May 6, 2025 hearing request gave rise to this hearing. Attorney Jeffrey Holloway represents Employer and its insurer; non-attorney Johnny Andrew (Employee) represents himself. The record initially closed on June 24, 2025. However, on June 24, 2025, Employee argued he had not been notified properly for the hearing, and opposed it. *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No. 25-0042 (July 16, 2025) (*Andrew XI*) reopened the record, which closed on August 13, 2025, when the panel deliberated.

ISSUE

Employer contends Employee should be barred from filing additional claims, because his past claims were dismissed for willful refusal to provide discovery in *Andrew v. Silver Bay Seafoods*,

LLC, AWCB Dec. No. 23-0060 (October 30, 2023) (*Andrew V*). It contends Employee continues to file claims seeking the same benefits, which requires Employer to expend unreasonable and unnecessary attorney fees and costs. To effectuate its request, Employer seeks a "screening order" which would result in Employee's duplicative pleadings being rejected.

Employee did not initially file a hearing brief for this hearing. On July 24, 2025, he timely filed a brief pursuant to *Andrew XI*. It was nonresponsive to Employer's petition for a screening order. However, at the May 6, 2025 prehearing conference, he admitted that his December 3, 2024 claim for benefits was for continuing and past benefits. Therefore, although he has not addressed Employer's request for a screening order directly, it appears Employee opposes it.

Shall Employer be given relief from Employee's pleadings?

FINDINGS OF FACT

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

1) Employee has filed eight claims in this case. The Board has issued 11 decisions in this matter; this instant decision will be *Andrew XII*. (Agency file; observations).

2) Employee's eight claims are listed in the following table:

Table I

	Claim Date	Date Filed	Benefits Sought	Action
1	7/8/19	7/9/19	Permanent total disability (PTD) benefits; medical costs	Dismissed, in *Andrew V*
2	12/9/19	12/9/19	Unfair or frivolous controversion; medical transportation costs	Dismissed, in *Andrew V*
3	10/5/22	10/5/22	PTD benefits; unfair or frivolous controversion; medical transportation costs; medical costs; late-payment penalty; interest	Dismissed, in *Andrew V*
4	4/24/23	4/24/23	PTD and permanent partial impairment (PPI) benefits; a compensation rate adjustment; an unfair or frivolous controversion; medical transportation costs; a late-payment penalty; interest	Dismissed, in *Andrew V*
5	5/29/23	5/30/23	Temporary total disability (TTD) benefits; a compensation rate adjustment; "other," which refers to the rate adjustment	Dismissed, in *Andrew V*
6	7/18/23	7/18/23	TTD benefits; a compensation rate adjustment; "other," which refers to the rate adjustment	Dismissed, in *Andrew V*

7	7/18/23	7/24/23	TTD benefits; a compensation rate adjustment; "other," which refers to the rate adjustment	Dismissed, in *Andrew V*
8	12/3/24	12/3/24	TTD benefits; compensation rate adjustment; a late-payment penalty; interest; "other," which refers to the rate adjustment	Dismissed, in *Andrew V* through 10/30/23; pending from 11/1/23 to present

(Claim for Workers' Compensation Benefits, dates indicated above).

3) As of the hearing date, Employee had also filed the following 56 petitions:

Table II

	Petition Date	**Filed Date**	**Request or Contention**	**Action**
1	12/6/19	12/9/19	Second Independent Medical Evaluation (SIME)	Granted
2	2/19/20	2/21/20	A protective order and to compel	Resolved
3	4/13/20	4/13/20	Reason not specified	Moot
4	5/12/20	5/14/20	Filed in error per Employee	Moot
5	Undated	6/15/20	Review reemployment (RBA) decision	Abeyance
6	6/13/20	6/16/20	Corrected the above RBA appeal	Abeyance
7	9/9/20	9/9/20	Strike SIME reports (filed at designee's suggestion)	Resolved
8	3/13/21	3/15/21	Issue re SIME petition	Resolved
9	3/31/21	3/17/21	Mailed copy of 3/13/21	Resolved
10	8/6/21	8/6/21	For status of SIME & other requests	Resolved
11	11/3/21	11/4/21	Failure to provide SIME travel	Rejected/Service
12	11/12/21	11/12/21	Same as rejected 11/3/21	Resolved
13	4/15/22	4/18/22	Compel discovery	Granted/ denied
14	4/15/22	4/18/22	(1)Protective order & (2) Whistleblower Act issue	(1)Denied (2) File ARH
15	5/20/22	5/20/22	Protective order under Whistleblower Act	File ARH
16	5/31/22	6/1/22	Seeking notary & transportation costs	File ARH
17	7/6/22	7/7/22	Adjuster violating Act & insurance laws	File ARH
18	9/14/22	9/14/22	Adjuster and Employer violated laws	Rejected/Service
19	9/14/22	9/23/22	Adjuster and Employer violated laws	File ARH
20	9/26/22	9/26/22	Similar to 9/14/22; adjuster and Employer violated laws	File ARH
21	9/26/22	9/26/22	Failure to file comp rate affidavit & violated §070(f)	File ARH
22	9/28/22	9/28/22	Adjuster violated self-insure statute	File ARH
23	9/26/22	9/30/22	Identical to 9/26/22; adjuster and Employer violated various laws	File ARH

24	9/26/22	9/30/22	Employer violated a specific statute	File ARH
25	10/3/22	10/3/22	Protective order on medical records under §108(d)	File ARH
26	9/28/22	10/4/22	Identical to 9/28/22	File ARH
27	10/3/22	10/11/22	Mailed copy of 10/3/22 protective order on medical records under §108(d)	File ARH
28	11/21/22	11/21/22	Protective order against deposition	Denied
29	12/15/22	12/15/22	Compel discovery from Employer	Denied
30	Undated	1/6/23	Insurance fraud & recon or mod based on PPI rating	Unknown
31	1/6/23	1/6/23	Review RBA decision; recon or mod based on PPI rating	Unknown
32	1/11/23	1/12/23	Compel discovery re compensation report	Unknown
33	1/6/23	1/19/23	Mailed copy of 1/6/23; review RBA decision; recon or mod based on PPI rating	Unknown
34	1/31/23	1/31/23	Appeal from discovery orders	Granted/Denied
35	1/31/23	2/16/23	Mailed copy of 1/31/23	Granted/Denied
36	5/16/23	5/16/23	Recon 5/8/23 D&O	Denied
37	5/16/23	5/16/23	Identical to 5/16/23	Denied
38	5/16/23	5/19/23	Mailed copy of 5/16/23	Denied
39	5/29/23	5/30/23	Cancel 6/1/23 prehearing conference	Moot
40	5/29/23	5/30/23	Identical to 5/29/23	Moot
41	7/18/23	7/18/23	Unspecified dismissal request	Unknown
42	7/18/23	7/18/23	Identical to 7/18/23	Unknown
43	8/14/23	8/14/23	Employer violated various statutes & fraud	Unknown
44	8/14/23	8/21/23	Mailed copy of 8/14/23	Unknown
45	9/25/23	9/25/23	Protective order & revoke release	Resolved
46	9/25/23	9/25/23	Identical to 9/25/23	Resolved
47	11/9/23	11/9/23	Fraud & reconsider Board D&O	Denied
48	11/15/23	11/15/23	Amended 11/9/23	Denied
49	11/15/23	11/15/23	Identical to 11/15/23	Denied
50	11/9/23	11/16/23	Mailed copy of 11/9/23	Denied
51	11/15/23	11/28/23	Mailed copy of 11/15/23	Denied
52	10/29/24	10/29/24	Modification of Board D&O	Denied
53	1/23/25	1/23/25	Remove designee & change of venue based on fraud and criminal acts	Withdrawn
54	3/4/25	3/4/25	Reconsider 2/27/25 Board D&O	Denied
55	5/21/25	5/21/25	Extension under §.110(c)	Moot
56	6/24/25	6/24/25	Improper service for 6/24/25 hearing	Moot

(Petitions, dates above; "File ARH" means the designee told him to file an Affidavit of Readiness for Hearing (ARH) when he wanted the Board to hear these).

4) In the panel's experience, eight claims in a case is not extreme, but 56 petitions is an excessive number compared to an average case. (Experience, judgment and observations).

5) On January 26, 2023, the Board's designee ordered Employee to sign an employment records release, denied his request for a protective order against giving his deposition, and ordered him to attend his deposition. (Prehearing Conference Summary, January 26, 2023).

6) On May 8, 2023, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No. 23-0024 (May 8, 2023) (*Andrew III*) affirmed the designee's orders requiring Employee to sign an employment record release and sit for his deposition. (*Andrew III*).

7) On October 30, 2023, *Andrew V* addressed the issue, "Will Employee's claims be dismissed for his willful failure to provide discovery?" It found Employee had twice failed to follow Board-designee orders to sign and return discovery releases and had twice failed to appear for his deposition. *Andrew V* found Employee filed some pleadings in response to Employer's pleadings as if litigation was "a game." Ultimately, *Andrew V* granted Employer's petitions to dismiss and ordered, "Employee's past claims for past benefits are all dismissed." (*Andrew V*).

8) On November 21, 2023, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No. 23-0068 (November 21, 2023) (*Andrew VI*) denied Employee's November 9 and 15, 2023 petitions to reconsider *Andrew V*. (*Andrew VI*).

9) On December 5, 2023, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No. 23-0074 (December 5, 2023) (*Andrew VII*) denied Employee's amended November 15, 2023 petition to reconsider *Andrew V*. (*Andrew VII*).

10) On February 12, 2025, Employer cross-petitioned "for a screening order" and an order awarding fees and costs against Employee. Employer sought an order to "halt" any "further filings by the employee, since his claims are **dismissed**. . . ." (emphasis in original). Given that the February 12, 2025 cross-petition is not listed in Employee's agency file under "Petition," Workers' Compensation Division (Division) staff did not recognize that Employer's answer also contained a cross-petition. (Answer to Employee's January 23, 2025 Petition and Cross Petition for a Screening Order and an Order for Attorney Fees and Costs Assessed against the Employee, February 12, 2025; observations).

11) On February 14, 2025, Employer requested an order directing Employee to cease filing "all unfounded, harassing, duplicative, unknowing, and unintelligible petitions since his claims are dismissed." (Hearing Brief of Silver Bay Seafoods, LLC, February 14, 2025).

12) On February 27, 2025, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No. 25-0013 (February 27, 2025) (*Andrew VIII*) denied Employee's October 29, 2024 petition to modify

Andrew V. It also denied Employer's requests to stop Employee from filing further pleadings, and for an order canceling a March 11, 2025 prehearing conference. Among other things, *Andrew VIII* determined that parties have the right to seek redress, and Employer provided no legal basis to stop Employee from filing pleadings. Employer had provided no specific statute, regulation or decisional law providing authority for the Board to cancel a prehearing conference under the circumstances. Notably, *Andrew VIII* added:

> Further, *Andrew V* dismissed Employee's *past* claims for benefits for failing to cooperate with discovery. Conceivably, should Employee change his mind and sign and deliver releases to Holloway and sit for a deposition, he may (or may not) be entitled to benefits going forward from the date Employee begins to cooperate with discovery. To be clear, this decision does not suggest that Employee is or will be entitled to any future benefits; only that *procedurally* he may be entitled to claim some should he cooperate fully with discovery (emphasis in original).

13) On March 5, 2025, Employer answered Employee's March 4, 2025 petition and contended "the Board needs to stop this doom cycle litigation and order that the employee is **prohibited** from repeatedly filing the same pleadings and arguments" (emphasis in original). (Answer to Employee's March 4, 2025 Petition for Reconsideration, March 5, 2025).

14) On March 5, 2025, Employer also petitioned for "partial reconsideration" of *Andrew VIII*. It contended *Andrew VIII* had authority to, and erred by failing to, order Employee to stop filing duplicative pleadings, and to cancel a March 11, 2025 prehearing conference. Employer contended Employee's December 5, 2024 claim, "which seeks TTD benefits going back to 2018, a compensation rate adjustment, penalty, and interest, is **entirely duplicative, and a renewal of,** all prior workers' compensation claims served on July 10, 2019, December 9, 2019, October 5, 2022, April 26, 2023, June 2, 2023, and July 23, 2023 -- **all of which were dismissed by the Board**" (emphasis in original) in *Andrew V* on October 30, 2023. Employer stated *Andrew VIII* based its decision on a perceived lack of legal authority to grant Employer's requests "to stop filings and cancel the prehearing conference." It cited for support *Bailey*, which applied AS 23.30.110(c) to dismiss "newly filed claims that were merely duplicative of ones that had already been filed and barred [by] the statute." Employer argued "[t]he same principle should apply here" because Employee's December 2, 2024 claim was, in its view, "duplicative of all prior claims that have been dismissed." It contended Employer "should not have to expend time and resources litigating the same claims over and over again." Employer queried, "What is the point of dismissal

of claims for violations of discovery orders if the employee can simply re-file the claim and the employer is forced to re-litigate the claim?" It stated, "This is not a quick, fair, and efficient process" as required under AS 23.30.001. Employer sought an order canceling the March 11, 2025 prehearing conference and ordering "the employee to stop filing duplicative pleadings." (Petition; memorandum in Support of Partial Reconsideration, March 5, 2025).

15) On March 7, 2025, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No 25-0016 (March 7, 2025) (*Andrew IX*) denied Employee's March 4, 2025 petition to reconsider *Andrew VIII.* (*Andrew IX*).

16) On March 11, 2025, Employer reported to the Board's designee that Employee had "not provided the necessary signed discovery releases or scheduled his deposition and discovery remains incomplete." (Prehearing Conference Summary, March 11, 2025).

17) On March 17, 2025, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No 25-0018 (March 17, 2025) (*Andrew X*) denied Employer's petition for partial reconsideration of *Andrew IX*. It also found Employee showed no sign of relenting in his willful refusal to obey discovery orders. This was causing an unreasonable cost to Employer. *Andrew X* ordered the designee at a prehearing conference to explain Employee's rights and responsibilities to him and give him notice of "what will be required before filing new claims or petitions." Employee would have an opportunity at that conference to explain his pending December 2, 2024 claim. The designee could attempt to get Employee to agree to comply fully with the previously ordered discovery including signing releases and sitting for his deposition in good faith. If at that prehearing conference the designee determined that Employee's December 2, 2024 claim was seeking past benefits, the designee could set a hearing on Employer's request for a screening order. (*Andrew X*).

18) Employee has not sought appellate review on any Board decision. (Agency file).

19) On March 25, 2025, the parties attended a prehearing conference. Employee stated he wanted a hearing on a "fraud" petition, which the designee declined to schedule pending Employee providing discovery. The designee attempted to explain hearing procedures to Employee, but he interrupted and stated the process "had already been explained to him multiple times." The designee explained the process again in accordance with *Andrew X*. He asked Employee if he intended to comply with the discovery process, *i.e.*, provide discovery releases to Holloway and sit for his deposition in good faith. Employee stated, "I have no problem with that!" Holloway stated employee had not provided signed discovery releases "nor has Employee agreed to schedule

his deposition." The designee asked Employee if his December 3, 2024 claim was for "continuing or past benefits." Employee stated the claim was for "both past and continuing benefits as his left knee injury was never addressed." The designee advised Employee that if he wanted any new claims and petitions adjudicated he had to cooperate with the discovery process. Employee stated his rights were being "trampled," added he would see the designee in federal court, and terminated his call. Employer wanted the designee to schedule a hearing on Employer's February 12, 2025 cross-petition for a screening order, but the designee declined because Employee was no longer present. He scheduled a subsequent prehearing conference to address the screening order petition. (Prehearing Conference Summary, March 25, 2025).

20) On May 6, 2025, the parties appeared telephonically at a prehearing conference. Employee orally withdrew his petition to remove the designee and to change venue. He stated he would see the designee and Holloway in federal court. Employee again asked for a hearing on his "fraud" petition. The designee again declined, finding Employee's "rights to benefits have been suspended" until he provided signed discovery releases and sat for his deposition. Employee again stated he was willing to provide this discovery, and "ordered" Holloway to send him new releases and schedule his deposition. Holloway implicitly refused and stated the releases had already been provided to Employee "17 times." Employer and Employee agreed that the designee should schedule Employer's February 12, 2025 cross-petition for a screening order for hearing, and the designee set a written-record hearing for June 24, 2025, with appropriate instructions for filing evidence and briefs. (Prehearing Conference Summary, May 6, 2025).

21) On June 17, 2025, Employer filed and served its hearing brief. It set forth factual and procedural background and contended Employee should be "barred filing additional claims" notwithstanding his self-represented status. It noted that Board decisions and designees had repeatedly advised him about his rights, but Employee continued to file duplicative pleadings. Employer argued that this depleted its resources because it had to answer claims that had already been dismissed. It contended this was not a "reasonable cost." Employer relied on *Parsons*, which granted authority for a panel to issue a screening order. It argued that Employee's behavior demonstrated that he has no respect for Board decisions. Employer contended a screening order would prevent Employee from filing repetitious and duplicative pleadings. (Hearing Brief of Silver Bay Seafoods, LLC, June 17, 2025).

22) Employee did not file a brief before the June 24, 2025 hearing. However, on the hearing date Employee filed a petition stating he had not been given proper service and objected to the hearing going forward. (Agency file; Petition, June 24, 2025).

23) On July 16, 2025, *Andrew v. Silver Bay Seafoods, LLC*, AWCB Dec. No 25-0042 (March 17, 2025) (*Andrew XI*) reopened the record to give Employee a chance to be heard on Employer's request for a screening order. (*Andrew XI*).

24) On July 24, 2025, Employee filed and served on Holloway a letter responding to *Andrew XI*. Employee's multi-page letter did not address Employer's February 12, 2025 cross-petition for a screening order but discussed issues not relevant to the current dispute before the Board. Likewise, the numerous attachments did not help the panel understand Employee's position on the screening order request. (Letter with attachments, July 24, 2025).

25) During the period in question, July 30, 2019 through June 24, 2025, Employer filed 35 answers to Employee's 65 petitions. Several answers addressed more than one petition in a single pleading. (Agency file; observations).

26) When an unrepresented injured worker files a petition, the Division automatically schedules a prehearing conference. (Observations).

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 . . . to ensure . . . quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to . . . employers. . . .
> > . . . .
> > (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 testimony, evidence, 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 & Bahler*, 747 P.2d 528, 533-34 (Alaska 1987). *Richard v. Fireman's Fund*, 384 P.2d 445, 449 (Alaska 1963) said:

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

Richard also stated, "the Board's first duty is to administer the act so as to give the employee the greatest possible protection within the purposes of the act." *Bohlmann v. Alaska Construction & Engineering*, 205 P.2d 316, 319-21 (Alaska 2009) stated, "Here, the board at a minimum should have informed Bohlmann how to preserve his claim. . . . Its failure to recognize that it had to do so in this case was an abuse of discretion."

> **AS 23.30.108. Prehearings on discovery matters; objections to requests for release of information; sanctions for noncompliance**. (a) If an employee objects to a request for written authority under AS 23.30.107, the employee must file a petition with the board seeking a protective order within 14 days after service of the request. If the employee fails to file a petition and fails to deliver the written authority as required by AS 23.30.107 within 14 days after service of the request, the employee's rights to benefits under this chapter are suspended until the written authority is delivered.
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> (b) If a petition seeking a protective order is filed, the board shall set a prehearing within 21 days after the filing date of the petition. . . . If the board or the board's designee orders delivery of the written authority and if the employee refuses to deliver it within 10 days after being ordered to do so, the employee's rights to benefits under this chapter are suspended until the written authority is delivered. During any period of suspension under this subsection, the employee's benefits under this chapter are forfeited unless the board . . . determines that good cause existed for the refusal to provide the written authority.
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> (c) . . . If a party refuses to comply with an order by the board's designee or the board concerning discovery matters, the board may impose appropriate sanctions in addition to any forfeiture of benefits, including dismissing the party's claim, petition, or defense. . . .
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> (d) If the employee files a petition seeking a protective order to recover medical and rehabilitation information that has been provided but is not related to the employee's injury, and the board or the board's designee grants the protective order, the board or the board's designee granting the protective order shall direct the division, the board, the commission, and the parties to return to the employee, as soon as practicable following the issuance of the protective order, all medical and rehabilitation information, including copies, in their possession that is unrelated to the employee's injury under the protective order.

In *Bailey v. Texas Instruments*, 111 P.3d 321, 324-25 (Alaska 2005), the parties reached a settlement, but left the employee's right to claim future medical benefits unsettled. The employer controverted benefits; the claimant in *Bailey* contested the denials and filed three claims for the same kind of benefits. After a hearing, the Board dismissed all three claims, finding the third claim the worker filed in 2001 "merged" with his 1997 and 1999 claims and all three were "time-barred" under AS 23.30.110(c), because the claimant failed to request a hearing within two years of the date the employer controverted the 1997 claim. The worker appealed and *Bailey* affirmed the Board's denial of the first two claims because the claimant failed to request a hearing timely. However, *Bailey* reversed the Board's dismissal of the 2001 claim and explained:

> The 2001 claim sought compensation for medical expenses -- physician services and prescription medications -- that were incurred after Bailey filed his 1997 claim. Bailey did not simply re-file the 1997 claim in 2001; rather, he sought compensation for different expenses. Because the 2001 claim was independent of the 1997 and 1999 claim, and because Bailey requested a hearing less than two years after Geophysical controverted his 2001 claim, the claim is not time-barred.
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> It is true that Bailey apparently sought the same type of medication in each of his claims. But the fact that Geophysical succeeded in controverting the 1997 pharmacy bills because Bailey failed to file a timely request for a hearing does not mean that Bailey can never again claim reimbursement for narcotics or benzodiazepines. . . . Thus, even assuming that a dismissal under subsection .110(c) might have a preclusive effect in some situations, here the 1997 and 1999 controversions do not preclude Bailey from bringing future claims for narcotics and benzodiazepines.
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> In summary, if the two-year time limit in subsection .110(c) applies in this case and is valid, Geophysical successfully controverted Bailey's 1997 and 1999 claims and Bailey may not seek compensation for the pharmacy bills in those claims or for any other related expenses that he could have included in these earlier claims. But Bailey remains free to claim (and Geophysical remains free to controvert) compensation for subsequent medical care and medications, including prescriptions for narcotics and benzodiazepines. Bailey's 2001 claim did precisely that. Because Bailey requested a hearing on the 2001 claim well within the two-year statute of limitations, his 2001 claim could not be dismissed under subsection .110(c).

Schoppenhorst v. Property Pros, AWCB Dec. No. 24-0071 (December 19, 2024) addressed an employer's request for a prelitigation screening order. Prior Board orders had decided many issues subsequently raised in the claimant's numerous petitions. *Schoppenhorst* said:

> A vexatious litigant is one who litigates maliciously and without good grounds to create trouble and expense for the party being sued. . . . Frivolous pleadings are those lacking a legal basis or legal merit, or are not serious, or are not reasonably purposeful. . . . The history of vexatious, frivolous, or repetitive claims or petitions; the motive in filing the claims or petitions; representation by counsel; the expense caused to other parties, or unnecessary burden imposed on the Board and its staff; and whether other sanctions are adequate to protect the parties and the Board, must be assessed. . . .
>
> At the very least, a litigation screening order requires a showing that Employee's actions have been numerous or abusive. . . . Employee has filed at least 176 petitions since litigation began and as many as 11 and 12 in a single day. . . .

Schoppenhorst granted the employer's request and issued a screening order. *Id.* at 31. It relied in part on the *Molski* decision, below.

In *Molski v. Mandarin Touch Restaurant*, 347 F.Supp.2d 860, 864-68 (Cal. 2004) (*Molski I*) the court found a "vexatious litigant" after the claimant filed "hundreds of nearly identical Title III claims" against businesses as part of an "apparent scheme of systematic extortion." He never ligated a case to completion; he settled most while a few got dismissed. *Molski* limited his access to the courts based on a five-factor analysis: (1) history of vexatious, harassing or duplicative lawsuits; (2) motive in pursuing the litigation, *i.e.*, an objective good-faith belief of prevailing; (3) representation by counsel; (4) needless expense to other parties or an unnecessary burden on court personnel; and (5) other sanctions available to protect the courts and parties.

Molski applied each factor: (1) the court was tempted to exclaim "what a lousy day!" It found it highly unusual for anyone to sustain three injuries in a single day, each of which required a separate federal lawsuit. But that is what the plaintiff in *Molski* claimed; (2) "Clearly, raising multiple claims, by itself, is not unethical or vexatious." However, it was consistent with an "overall pattern of behavior" that demonstrated the claimant's motivation was, "ultimately, to extract a cash settlement." *Molski* found the claimant's motive was clear, "sue, settle, and move on to the next suit"; (3) an attorney represented the claimant in each of his 400 lawsuits; (4) "Because Plaintiff has filed a countless number of vexatious claims, the Court believe[d] this factor plainly weigh[ed] against him"; and (5) the claimant's "filings appear meritorious when examined individually. Their vexatious nature was revealed only when viewed together.

Molski v. Evergreen Dynasty Corp., 500 F.3d 1047, (Cal. 2007) (*Molski II*) on appeal from *Molski I*, found "abuse of discretion" was the proper standard for review, and affirmed *Molski I*. *Molski II* recognized prelitigation orders were "an extreme remedy that should rarely be used," and noted that a decision issuing such an order should be supported by (1) adequate notice and a chance to be heard, (2) an adequate record for review, (3) substantive findings of frivolousness, and (4) the order "must be narrowly tailored to closely fit the specific vice encountered." "A court should enter a pre-filing order constraining a litigant's scope of actions in future cases only after a cautious review of the pertinent circumstances." *Id.* at 1057-58.

Parsons v. Craig City School District, 2019 WL 6170750 (Alaska 2019) (unpublished) (*Parsons I*) summarized the injured worker's litigation through the Board, Alaska Workers' Compensation Appeals Commission (Commission) and the Alaska Supreme Court (Court). The claimant had an injury in 2001, filed a claim, her employer controverted and she did not pursue her claim. Ten years later, she filed another claim based on the 2001 incident and her employer again controverted. The Board held a hearing in 2011 on the 2001 and 2010 claims and dismissed them. The claimant appealed and the Commission affirmed. About a year later, the employee filed a motion with the Court to accept a late-filed appeal. The Court rejected the pleadings based on deficiencies, advised the employee to correct them and re-file, but she did nothing and the Court closed its file. Four years later in 2017, the claimant wrote the Board asking to reopen her case. The Board treated this as a modification request on its 2011 decision, and gave her an opportunity to file evidence to support reopening her claim. Her employer argued *res judicata*. The Board held a 2018 hearing and denied the employee's request to reopen her claim and granted the employer's petition to dismiss it. She appealed to the Commission, which affirmed. She appealed that decision to the Court, which in *Parsons I* affirmed the Commission's decision in all respects, effectively ending the employee's case.

With *Parsons I*'s history in mind, the claimant did not stop and was soon before the Board filing additional claims for the same benefits. *Parsons v. Craig City School District*, AWCB Dec. No. 23-0069 (November 21, 2023) (*Parsons II*) addressed the employer's request for a pre-filing screening order. *Parsons II* decided that a history of vexatious, frivolous, or duplicative claims or petitions and Employee's motive in filing the claims and petition must be considered. It found the

Board had authority to issue a pre-filing screening order to prevent a party from filing "duplicative, frivolous, or vexatious claims or petitions." *Parsons II* found vexatious conduct and granted the screening order. *Parsons II* also relied in part on *Molski*, above.

The claimant in *Parsons II* was not represented, but Division staff had told her how to proceed but instead she filed a third claim seeking the same relief. *Parsons II* found the claimant's motive was clear, she intended "to pursue benefits until they are awarded." It found her actions "duplicative and frivolous" and imposed significant costs on her employer and unreasonably burdened Division staff, who had to analyze each pleading. Given these circumstances, *Parsons II* gave the claimant a "narrowly tailored" right to file a new claim only if it did not restate a claim "that has already [been] asserted or could have been asserted." It directed a Division Hearing Officer, prior to the Division excepting a pleading, to "scrutinize" the employee's claims or petitions.

> **8 AAC 45.050. Pleadings.** (a) A person may start a proceeding before the board by filing a written claim or petition.
>
> (b) For claims and petitions under this subsection,
>
> > (1) a claim is a written request for benefits, including compensation, attorney fees, costs, interest, reemployment or rehabilitation benefits, rehabilitation specialist or provider fees, or medical benefits under AS 23.30 that meet the requirements of (4) of this subsection; the claim may be filed on a form provided by the board; in this chapter, an application is a written claim;
> > (2) a petition is a written request for action by the board other than a claim that meets the requirements of (8) of this subsection; the petition may be filed on a form provided by the board; . . .
> > . . . .
>
> (c) For answers to claims and petitions under this subsection,
>
> > (1) an answer to a claim must be filed not later than 20 days after the date of service of the claim and served upon all parties; if an answer is not timely filed, default will not be entered, but statements in the claim will be deemed admitted; however, failure of a party to deny a fact alleged in a claim does not preclude the board from requiring proof of the fact;
> > (2) an answer to a petition must be filed not later than 20 days after the date of service of the petition and served upon all parties;
> > (3) an answer must be simple in form and language and state the admitted and disputed claims briefly and clearly so that a lay person knows what proof will be required at the hearing. . . .

. . . .

(e) A pleading may be amended at any time before award upon such terms as the board or its designee directs. . . .

8 AAC 45.054. Discovery. . . .

(d) A party who refuses to release information after having been properly served with a request for discovery may not introduce at a hearing the evidence which is the subject of the discovery request. . . .

8 AAC 45.060. Service. . . .

(b) . . . If a right may be exercised or an act is to be done, three days must be added to the prescribed period when a document is served by mail. . . .

8 AAC 45.063. Computation of time. (a) In computing any time period prescribed by the Act or this chapter, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is included, unless it is a Saturday, Sunday or a legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. . . .

8 AAC 45.065. Prehearings. (a) After a claim or petition has been filed, a party may file a written request for a prehearing, and the board or designee will schedule a prehearing. Even if a claim, petition, or request for prehearing has not been filed, the board or its designee will exercise discretion directing the parties or their representatives to appear for a prehearing. At the prehearing, the board or designee will exercise discretion in making determinations on

(1) identifying and simplifying the issues; . . .

ANALYSIS

Shall Employer be given relief from Employee's pleadings?

Employer contends Employee's pleadings are excessive and require it to incur attorney fees and costs to answer them. It seeks a prelitigation "screening order" that would require Division staff to review Employee's pleadings and reject them if he had already sought the benefit or relief pled. Although *Andrew XI* gave him an opportunity to respond, Employee has not addressed Employer's request. This decision presumes he opposes it.

Employer relies on *Parsons II*, but *Parsons II* relies on *Molski*, which acknowledged that a prelitigation screening order is "an extreme remedy that should rarely be used." *Molski II*. Thus, deciding Employer's petition requires a careful balancing between Employee's basic due process rights, against potential abuses of those rights at Employer's expense. AS 23.30.001(1). The Workers' Compensation Act (Act) in §001(4) requires that hearings be fair to all parties and all parties be afforded due process and an opportunity to be heard, and their arguments and evidence fairly considered. This mandate supports Employee's right to seek redress.

Employer's June 17, 2025 petition for a prelitigation screening order focused primarily on Employee's workers' compensation "claims." However, it also mentioned seeking an order stopping him from "filing duplicative pleadings." "Pleadings" include both claims and petitions. Therefore, this decision will address both pleading types:

A. Employee's petitions.

While both are considered "pleadings," petitions and claims serve different purposes. A petition "is a written request for action," but it is not a "claim" for benefits. 8 AAC 45.050(b)(2). An "action" a party may request on a petition could include for example a petition for a protective order, a petition to strike a party's brief or witness list because they did not conform to the rules, a petition seeking reconsideration or modification, or a petition for an SIME. If a party files an answer to a petition, it must be filed not later than 20 days after the date the petition was served; the day the petition was served is never counted; three days are added to the 20 days if the petition was served by mail. 8 AAC 45.050(c)(2); 8 AAC 45.060(b); 8 AAC 45.063(a).

Unlike a party's failure to answer a "claim," discussed below, a party's failure to answer a petition generally has no adverse legal effect against a non-answering party. 8 AAC 45.050(c)(2). In other words, incurring a cost in answering a petition is optional. To be sure, some petitions should be answered to set forth the opponent's position on the issue under 8 AAC 45.050(c)(3); others not so much. When an injured worker is not represented by an attorney and files a petition, the Division automatically schedules a prehearing conference so a designee can address the claimant's petition, provide procedural guidance if needed and move the petition to a hearing if appropriate.

8 AAC 45.065(a); *Rogers & Babler*. An opposing party may also state its position on a petition at the prehearing conference. 8 AAC 45.065(a)(1).

As shown in Table II Employee filed 56 petitions prior to hearing. Employer filed only 34 answers (including several addressing multiple Employee petitions in one answer). Therefore, Employer's well-experienced attorney is aware that he need not respond to every petition, especially those that are obviously duplicates; and in this case he did not. Thus, Employer's contention that Employee's right to file pleadings should be "barred" or his pleadings screened because to answer them requires attorney fees and costs is considered, but it is not persuasive given these facts.

Employee's case is distinguishable from *Schoppenhorst*, where the claimant filed at least 176 petitions since litigation began and filed as many as 12 a day. Nevertheless, Employee's petitions have been excessive compared to a typical case. *Rogers & Babler*. Many Employee petitions raise issues or seek relief outside what a hearing panel can provide. This illustrates Employee's unsophistication with the law, which makes it difficult to ascribe vexatious intent or harassment as his motives. The panel views the issue differently than Employer does, and believes proper instruction to Employee and specific orders will remedy this problem. *Richard*; *Bohlmann*.

First, eight petitions were duplicates simply because Employee filed his original petition electronically and then mailed the same petition to Division offices. Once Employee emailed a petition to the Division, there was no need for him to send the same petition to the Division by mail. In this regard, Employer will be granted relief and Employee will be directed to not mail pleadings to the Division that he filed with the Division electronically, and vice versa.

Second, at least eight more petitions were similar or identical to petitions Employee already filed. The reason for this is not clear; he may have re-filed some duplicate petitions because he was frustrated. For example, Employee filed a petition for a protective-order seeking recovery of medical records under AS 23.30.108(d). AS 23.30.108(b) provides for a prehearing conference within 21 days after a protective-order petition was filed, to resolve such issues promptly. That never happened in this case on his October 3, 2022 petition. Nevertheless, Employer will be given relief in this regard as well and Employee will be directed to not file duplicate petitions. The panel

believes Table II lists all petitions Employee filed in this case. If he has filed a petition and believes the designee has not acted upon it, the remedy is not to file another petition seeking the same relief. Rather, he should request and attend a prehearing conference where he can address previous unresolved petitions with the designee and request further action. He may also file an ARH on the specific petitions in question and the designee may schedule a hearing.

Third, Employee filed one petition in error and two did not state any specific requested relief. Employee will be directed to state with clarity the relief he seeks through any future petition. In other words -- what non-benefit relief does he want, and why does he want it?

Fourth, numerous petitions do not seek "relief" at all, but rather requested a status update on pending pleadings, made fraud allegations, made arguments or alleged that various persons have violated numerous state and federal statutes. Petitions are not the place to voice general dissatisfaction or make claims. If Employee wants to follow-up on pending petitions, he should request and attend a prehearing conference. At the prehearing conference, Employee can raise any unresolved petitions (see Table II), check their status and request a hearing on one or more petitions if necessary. The fact that *Andrew V* dismissed Employee's past benefits does not necessarily prohibit him from obtaining a hearing on pending but unresolved procedural petitions. Likewise, petitions are not used for Employee to argue his case's merits. Hearing briefs serve that purpose. If Employee contends someone violated a law, and if that allegation relates to statutory relief or benefit provided for in the Act, he can raise those issues at the prehearing conference and, if and when a hearing is set on his claim's merits, he can argue those matters in his hearing brief. Employee will be directed to not argue his claim's merits in petitions.

Lastly, Employee's petitions have not all been excessive. As shown in Table II, Employee has succeeded in whole or in part on some petitions.

B. Employee's claims.

Employer contends that a screening order is necessary to prevent Employee from filing redundant claims for the same benefits. Again, Employee did not respond to Employer's petition but the panel presumes he opposes it. A "claim" is a "written request for benefits." 8 AAC 45.050(b)(1).

"Benefits" include disability payments, medical care and so forth, and if awarded usually provide the injured worker with direct monetary payments, or payments to others for medical care and treatment. *Richard*; *Bohlmann*.

Employer relied on *Parsons II*, which relied on *Molski*. Employee's situation is distinguishable from *Parsons II*. The claimant as stated in *Parsons I* had already been through a hearing, which dismissed his claims, a Commission appeal, which affirmed, and a Court appeal, which also affirmed dismissal. Employee has never appealed a decision in this case. Given the extensive litigation history in *Parsons I*, the *Parsons II* panel found the claimant intended to file pleadings until she got what she wanted. Employee appears to file claims because he is unfamiliar with the law. His case is also distinguishable from *Molski*, where the plaintiff filed more than 400 federal lawsuits, including some where he alleged three unfortunate "accidents" at restaurants and other facilities in the same day. *Molski* found the plaintiff and his attorney were running an extortion scam. Even then, the plaintiff was not "barred" from filing lawsuits; future filings were simply subject to a carefully tailored prelitigation screening order. By contrast Employee has filed eight claims; *Andrew V* dismissed all past benefits raised in the first seven and any benefits to which he may be entitled after *Andrew V* issued are suspended by operation of law. Eight claims in the panel's experience is not an extreme amount. *Rogers & Babler*. There is no evidence that Employee is running an extortion scam. It is more probable that he is not a sophisticated claimant, and as reflected by some of his pleadings, does not trust "the system."

Nevertheless, as shown in Table I, Employee often repeats the same claims for the same benefits. His pending December 2, 2024 claim seeks TTD benefits, a compensation rate adjustment, a late-payment penalty, interest and "other," which relates to his rate adjustment claim. He need not file another claim, unless he expressly wants to amend his December 2, 2024 claim in writing to add a different benefit claim. His non-dismissed claims are not precluded. *Bailey*. If Employee wants to amend his current claim he may do it at a prehearing conference. At a prehearing conference, he may orally add or withdraw benefit claims. 8 AAC 45.050(e). There is no need for him to file claims for the same benefits repeatedly and he will be directed to cease doing so.

Given these analyses, a screening order as "an extreme remedy" is unnecessary and Employer's request for a screening order will be denied. *Molski*. However, Employer will be granted relief in accordance with this decision. The remedy fashioned here strikes a reasonable balance between Employee's due process right to seek redress, have his arguments and evidence heard and fairly considered, along with his right to "start a proceeding" by filing a petition or claim, and Employer's right to fairness at "a reasonable cost." AS 23.30.001(1), (4); 8 AAC 45.050(a).

Lastly, Employee is reminded that pursuant to *Andrew V*, his past benefits have been dismissed because he failed and refused to sign informational releases and attend his deposition and participate in good faith. *Richard*; *Bohlmann*. Recently at prehearing conferences Employee stated he is ready and willing to sign releases and participate in his deposition. He apparently required Holloway to send him new releases; Holloway apparently refused stating he had sent them 17 times already. Employee is apparently waiting for Holloway to schedule his deposition; Holloway has apparently not done so. At this point the parties are at a standstill.

It is understandable why Holloway would not want to send Employee releases again, notwithstanding how many times he may have done so in the past because Employee has steadfastly refused to sign, date and return them. Likewise, Holloway scheduled Employee's deposition twice, and incurred costs related to his no-shows. But this panel has a duty to advise Employee procedurally how to preserve and prosecute his claim. *Richard*; *Bohlmann*.

Therefore, Employee is advised that pursuant to *Andrew V*, his past benefits from his first seven claims were all suspended, forfeited and dismissed. Any benefits to which he could be entitled pursuant to his December 2, 2024 claim are likewise suspended by operation of law "until the written authority is delivered," and may be forfeited. AS 23.30.108(b), (c). Moreover, unless and until Employee sits for his deposition and participates in good faith, and provides other discovery as previously ordered, he has refused "to release information after having been properly served with a request for discovery" and he may not "introduce at a hearing the evidence which is the subject of the discovery request." 8 AAC 45.054(d).

Simply stated, even if a hearing were scheduled on Employee's December 2, 2024 claim, he would not be allowed to offer any evidence at such hearing supporting his claim, nor would he be permitted to testify because Employer has previously requested, and Employee was ordered to provide, discovery through releases and a deposition and has done neither. That he may have at some prior time given Employer signed releases is immaterial. Releases expire, medical providers change and Employer is entitled to new releases. Under §054(d) Employee could not be allowed to present medical evidence supporting his claim at a hearing because Employer has not had an opportunity through record releases to obtain medical and other evidence that may affect Employee's case or Employer's liability. Likewise, Employee could not testify at hearing without Employer having had an opportunity to question him beforehand in a deposition, as the designee previously ordered. Accordingly, there is no reasonable way forward for Employee unless and until he signs releases and sits for and participates in his deposition in good faith.

At this juncture, the onus is on Employee to move his case forward. In an effort to break this deadlock, this decision will make the following order: Employee will be directed to contact Holloway by telephone or email and provide dates for which he is available to attend his deposition. Every day Employee delays is another day that any benefits to which he could be entitled are and remain suspended as a matter of law and subject to forfeiture under §.108(b), (c). Once Employee's deposition is scheduled on a mutually-agreed date, Holloway will be directed to provide releases to Employee for his review and signature while Employee and Holloway are at the deposition. If the deposition is in-person, Holloway can slide the releases across the table and Employee can review, date and sign them, and hand them back. If the parties attend a virtual deposition, then Holloway will be directed to send the releases he wants Employee to sign to him well prior to the deposition date.

Given the time that has passed since the designee first ordered Employee to sign releases years ago, Employer may need to give Employee different or additional releases listing additional medical providers that he may have seen or other entities that have become involved since he was ordered to sign releases. Employee retains his right under §.108(a) to object to any *new* releases by filing a petition for a protective with the Division within 14 days after Holloway sends him, or

hands him, any *new* releases. However, Employee does not have the right to object to the identical releases the designee ordered him to sign and return pursuant to all prior orders.

CONCLUSION OF LAW

Employer will be given relief from Employee's pleadings.

ORDER

1) Employee is ordered to not mail pleadings to the Division that he has already filed with the Division electronically, and vice versa.
2) Employee is ordered not to file duplicate petitions or claims.
3) Employee is ordered to state with clarity the relief that he seeks through any future petition.
4) Employee is ordered not to argue his case's merits in any future petitions.
5) Employee is ordered to contact Holloway by telephone or email and provide dates on which he is available to attend his deposition.
6) Once Employee's deposition is scheduled on a mutually-agreed date, Holloway is ordered to provide releases to Employee for his review and signature while Employee and Holloway are at the deposition.
7) If the parties attend a virtual deposition, Holloway is ordered to send the releases he intends Employee to sign to him well prior to the deposition date.
8) Employee retains his right to object to any new releases by filing a petition for a protective with the Division within 14 days after Holloway sends him, or hands him, the releases. Employee does not have the right to object to the identical releases the designee previously ordered him to sign and return in accordance with *Andrew V.*

Dated in Anchorage, Alaska on August 15, 2025.

ALASKA WORKERS' COMPENSATION BOARD

/s/
William Soule, Designated Chair

/s/
Sara Faulkner, Member

/s/
Pamela Cline, 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 Johnny Andrew, employee / claimant v. Silver Bay Seafoods, LLC, employer; Liberty Insurance Corporation, insurer / defendants; Case No. 201810619; 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 August 15, 2025.

/s/
Rochelle Comer, Workers' Compensation Technician