

MEMORANDUM

TO: Anna Latham, Legislative Liaison DATE: March 22, 2016

FROM: Andrew M. Hemenway, Chair SUBJECT: Issues Appealed to Supreme
Alaska Workers' Compensation Court
Appeals Commission

Rep. Colver asked for a summary of the types of issues appealed from the Appeals Commission to the Alaska Supreme Court. I've reviewed the decisions issued by the Supreme Court in cases appealed from the Commission, and here's what I've found.

About one third of the cases are primarily challenges to the Board's factual findings regarding the existence or cause of an injury or disability, and their relation to employment. In those cases, by statute the Commission and the Supreme Court are bound by the Board's credibility determinations and by its determinations regarding the weight accorded to the differing medical opinions. In addition, the Commission and the Supreme Court must accept the Board's factual findings if they are supported by substantial evidence. Given these parameters, it is difficult for a party to overturn a Board decision based on a disagreement with the Board's factual findings.

Of the remaining cases, the issues raised on appeal most often involve: (1) whether a party's (usually, the employee's) request to set aside a settlement agreement should be granted; (2) whether a late filing of some kind (notice of injury, hearing request, appeal) by the employee should be excused; (3) whether attorney's fees (either before the Board or the Commission) were properly awarded or denied; and (4) whether the Board followed the proper hearing procedure.

Other cases involved miscellaneous issues, such as whether the proper compensation rate was applied, whether an award should be stayed on appeal, or whether a medical service provider was entitled to payment from the employer.