

SB

29

<TARGET><BILL>SB 29</BILL><SUBJECT>SB
29</SUBJECT><COMM>SJUD30</COMM></TARGET>

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500
fax: 907-465-3532



Governor Bill Walker
STATE OF ALASKA

550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450
fax 907-269-7461
www.Gov.Alaska.Gov
Governor@Alaska.Gov

January 19, 2017

The Honorable Pete Kelly
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Kelly:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill that would repeal the Workers' Compensation Appeals Commission (Commission). Established in 2005, the Commission has jurisdiction over appeals from decisions and orders of the Alaska Workers' Compensation Board (Board). The Commission was created to streamline the appeals process for injured employees and their employers; however, it has instead created unnecessary costs and delays, and has not streamlined the appeals process.

The bill would reinstate superior court jurisdiction as the first level of review of decisions and orders of the Board. No changes are made to Board procedure, only to the forum for review of a Board decision. Moreover, no changes are made to the longstanding standards governing stays of payments and attorney fee awards under AS 23.30.145(c) in a workers' compensation benefits appeal. The superior court would apply the same standards of review used by the Commission and by the superior court when it had jurisdiction. Also consistent with longstanding practice, a cost bond on appeal would be waived for an employee appealing a denial of workers' compensation benefits. However, in terms of attorney fee awards in appeals of civil penalty orders against employers for a failure to insure for workers' compensation liability, the bill's repeal of the Commission's fee provision, AS 23.30.008(d), would result in overturning *State of Alaska, Division of Workers' Compensation v. Titan Enterprises, LLC*, 338 P.3d 316 (Alaska 2014). Instead, Rule 508(e)(4), Alaska Rules of Appellate Procedure, would govern attorney fee awards in civil penalty appeals. This change means that a prevailing party in an appeal of a civil penalty order – the employer or the Division of Workers' Compensation – could receive 20 percent of actual attorney fees, instead of fully compensatory and reasonable fees that a prevailing injured employee would receive in a benefits appeal.

The bill would amend the Alaska Rules of Appellate Procedure to remove references to the repealed Commission that would no longer have subject matter jurisdiction over these appeals, to reinstate the standard for stays that the superior court applied when it previously reviewed these appeals, and

The Honorable Pete Kelly
Transmittal Repeal Workers' Compensation Appeals Commission
January 19, 2017
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to change the name of the agency issuing the final administrative decision from the Commission to the Board. Legislative amendment of the court rules will ensure a smooth transition for workers' compensation appeals after the repeal of the Commission.

Also, to facilitate a smooth transition, the bill would require that new appeals and petitions for review of a board decision be filed with the superior court beginning on June 1, 2017, but would retain the Commission's jurisdiction over pending matters through December 1, 2017. If the Commission does not conclude pending matters on or before December 1, 2017, the bill provides that the matters would be transferred to the superior court for further proceedings.

In the spirit of streamlining government processes and protecting citizens rights, the bill would protect the right to challenge a decision of the Alaska Workers' Compensation Board, but without the unnecessary and inefficient step of appearing before the Worker Compensation Appeals Commission.

I urge your prompt and favorable action on this measure.

Sincerely,



Bill Walker
Governor

Enclosure



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Labor and
Workforce Development**

Office of the Commissioner

Post Office Box 111149
Juneau, Alaska 99811
Main: 907.465.2700
Fax: 907.465.2784

Sectional Analysis for HB 69 and SB 29

Section 1 amends AS 23.30.005, by adding a new subsection, clarifying that unless reversed or modified by a court, decisions of the former commission have the force of legal precedent.

Section 2 amends AS 23.30.107(b), by removing reference to the commission.

Section 3 amends AS 23.30.108(d), by removing reference to the commission.

Section 4 amends AS 23.30.108(e), by removing reference to the commission.

Section 5 amends AS 23.30, by adding a new section, clarifying when a board order becomes effective and is final, when it may be stayed, and clarifying when the board's findings are conclusive and binding on a reviewing court, and when the director may intervene in an appeal or petition for review.

Section 6 amends AS 23.30.155, by adding a new subsection changing statutory reference from the commission to the superior court.

Section 7 amends AS 39.50.200(b)(31), by removing reference to the commission.

Section 8 amends the uncodified law of the State of Alaska, by amending Rule 204(c)(2) Alaska Rules of Appellate Procedure, to address bonds for appeal purposes.

Section 9 repeals Rules 201.1, 401.1, and 501.1, Alaska Rules of Appellate Procedure.

Section 10 repeals AS 23.20.007, 23.30.008, 23.30.009, 23.30.009, 23.30.125, 23.30.127, 23.30.128, 23.30.129, 23.30.155(f), 23.30.395(10); AS 39.25.110(40); AS 44.64.020(a)(12), and 44.64.020(a)(13).

Section 11 amends the uncodified law of the State of Alaska, by adding a new section relating to indirect court rule amendments.

Section 12 amends the uncodified law of the State of Alaska, by adding conditional effect language that the Act takes effect only if secs. 8, 9 and 11 receive the two-thirds majority vote of each house required by art. IV, sec. 15 of the Alaska Constitution.

Section 13 amends the uncodified law of the State of Alaska, by adding a new section relating to applicability of amendments to proceedings pending before the Commission.

Section 14 amends the uncodified law of the State of Alaska, by adding transitional language clarifying proceedings seeking review of a board decision and order that have not yet been filed before the

Commission, must be filed in the superior court on or after June 1, 2017. Any appeals not completed by the Commission on or before December 1, 2017 will be transferred to the superior court on December 2, 2017, and clarifying procedures for requests for reconsideration during the transition period.

Section 15 amends the uncodified law of the State of Alaska, by adding transitional language.

Section 16 clarifies when the Act takes effect.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: SB 29
Fiscal Note Number: _____
() Public Date: _____

Identifier: SB029-DOLWD-WCAC-02-13-17
Title: REPEAL WORKERS' COMP APPEALS
COMMISSION
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: (S) LAC

Department: Department of Labor and Workforce Development
Appropriation: Workers' Compensation
Allocation: Workers' Compensation Appeals Commission
OMB Component Number: 2816

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Multi-Year Cost Estimates						
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	
OPERATING EXPENDITURES									
Personal Services	(148.4)		(296.7)	(296.7)	(296.7)	(296.7)	(296.7)	(296.7)	(296.7)
Travel	(9.4)		(18.7)	(18.7)	(18.7)	(18.7)	(18.7)	(18.7)	(18.7)
Services	(61.5)		(122.9)	(122.9)	(122.9)	(122.9)	(122.9)	(122.9)	(122.9)
Commodities	(2.5)		(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
Capital Outlay									
Grants & Benefits									
Miscellaneous									
Total Operating	(221.8)	0.0	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)

Fund Source (Operating Only)

1157 Wrkrs Safe (DGF)	(221.8)		(443.3)	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)
Total	(221.8)	0.0	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)	(443.3)

Positions

Full-time			(2.0)	(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)

(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)

(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/18

Why this fiscal note differs from previous version:

Updated with current costs from the FY2018 Governor's Budget and identified the need for regulation repeal or update in order to dissolve the Workers' Compensation Appeals Commission.

Prepared By: Marie Marx, Director
Division: Workers' Compensation
Approved By: Heidi Drygas, Commissioner
Agency: Department of Labor and Workforce Development

Phone: (907)465-6060
Date: 02/13/2017 10:00 AM
Date: 02/13/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NUMBER SB 29

Analysis

Currently, Workers' Compensation Board decision appeals are heard by the Workers' Compensation Appeals Commission (WCAC). This legislation will require Workers' Compensation appeals cases to be filed with the Alaska Superior Court beginning on June 1, 2017, but the WCAC will retain jurisdiction over pending matters until December 1, 2017. The WCAC will be dissolved, effective December 31, 2017.

The FY2018 cost savings reflected on this fiscal note assumes that the WCAC will cease incurring operating expenses after December 31, 2017, and was calculated based on budgeting for six months instead of 12. This fiscal note also assumes that the WCAC positions will terminate on December 31, 2017 and be deleted in FY2019.

This legislation will require the Workers' Compensation Board to repeal or update all regulations pertaining to the WCAC.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: SB 29
Fiscal Note Number: _____
() Public Date: _____

Identifier: SB029-JUD-ACS-02-10-17
Title: REPEAL WORKERS' COMP APPEALS
COMMISSION
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Senate Labor & Commerce

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Multi-Year Cost Estimates						
			FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES									
Personal Services									
Travel									
Services									
Commodities									
Capital Outlay									
Grants & Benefits									
Miscellaneous									
Total Operating	0.0	0.0	0.0			0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None									
Total	0.0	0.0	0.0			0.0	0.0	0.0	0.0

Positions

Full-time									
Part-time									
Temporary									

Change in Revenues

None									
Total	0.0	0.0	0.0			0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version. _____

Prepared By: Nancy Meade, General Counsel
Division: Alaska Court System
Approved By: Nancy Meade for Christine Johnson, Administrative Director
Agency: Alaska Court System

Phone: (907)463-4736
Date: 02/10/2017 03:00 PM
Date: 02/10/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NUMBER SB 29

Analysis

Senate Bill 69 would eliminate the Alaska Workers' Compensation Appeals Commission currently housed within the Department of Labor, and transfer jurisdiction over appeals pending in that Commission and all future appeals from the decisions of the Workers' Compensation Board to the superior court.

According to case data provided by the Commission, an average of 33 appeals per year were handled by the Commission over the last eleven years. The court system therefore anticipates that, under this bill, the superior court would be handling an additional 33 administrative appeals from the Board each year, on average. These additional cases would be presided over by a superior court judge; we anticipate that the impact of these new cases would be spread across jurisdictions and could be handled by our superior court judges without additional resources.

The court system does not anticipate that this bill would change the caseload of the Supreme Court, which already currently handles appeals from the Commission. Its jurisdiction would not be altered under this bill; the appeals would simply come from the superior court instead of from the Commission.

The court system anticipates that it will be able to absorb the increased caseload into its operations without a fiscal impact, and therefore submits this zero fiscal note.

**ATTACHMENTS FOR TESTIMONY OF
ERIC CROFT**

REGARDING HB 69

**THE HOUSE JUDICIARY COMMITTEE
ON
MARCH 10, 2017**

I. THE COMMISSION RULES OVERWHELMINGLY FOR INSURANCE COMPANIES

ALASKA SUPREME COURT DECISIONS REVIEWING AWCAC DECISIONS ON BENEFITS FOR INJURED WORKERS

		<u>BOARD</u>	<u>AWCAC</u>	<u>SUPREME</u>
1.	VANDEBURG (2016)	IC	C	EE
2.	HUIT (2016)	EE	C	EE
3.	EDER (2016)	IC	C	EE
4.	BOCKUS (2016)	EE	C	EE
5.	MCCULLOUGH (MOJ 2016)	IC	C	IC
	JONES (MOJ 2016)	IC	C	IC
	STENSETH (2015)	EE	E	EE
	COPPE (2014)	IC	C	IC
	HARRIS (2014)	EE	C	EE
10.	LOUIE (2014)	IC	C	IC
	ADAMSON (2014)	EE	C	EE
	HUMPHREY (2014)	EE	E /IC	EE
	ARCTEC (2013)	EE	E	EE
	DEROSARIO (2013)	EE	C	EE
15.	PRUITT (2013)	IC	C	IC
	ADAMSON (2013)	--	E	EE
	OLSEN (2013)	--	C	EE
	ROSALES (2013)	IC	C	IC
	MILTON (MOJ 2013)	IC	C	IC
20.	RUNSTROM (2012)	IC	C	IC
	ROCKSTAD (MOJ 2012)	IC	C	IC
	RIVERA (2011)	IC	C	IC
	LEWIS-WALUNGA (2011)	IC	C	EE
	MCGAHUEY (2011)	IC	C	IC
25.	SHEHATA (2010)	IC	C	EE
	DENINO (MOJ 2010)	IC	C	IC
	SMITH (2009)	IC	C	EE
	BOHLMANN (2009)	IC	C	EE
	THURSTON (2009)	EE	E /IC	EE/IC
30.	KELLY (2009)	IC	C	EE
31.	KIM (2008)	IC	C	EE

OVERALL, THE COMMISSION RULES IN FAVOR OF INSURANCE COMPANIES 27 OUT OF 31 OR 87.1% OF THE TIME.

BUT THIS IS NOT FAIR, BECAUSE SOMETIMES THE INSURANCE COMPANY SHOULD WIN ON APPEAL.

DECISIONS WHERE THE INSURANCE COMPANY PREVAILED BEFORE THE SUPREME COURT

	MCCULLOUGH (MOJ 2016)	IC	IC	IC
	JONES (MOJ 2016)	IC	IC	IC
	COPPE (2014)	IC	IC	IC
	LOUIE (2014)	IC	IC	IC
	PRUITT (2013)	IC	IC	IC
	ROSALES (2013)	IC	IC	IC
	MILTON (MOJ 2013)	IC	IC	IC
	RUNSTROM (2012)	IC	IC	IC
	ROCKSTAD (MOJ 2012)	IC	IC	IC
	RIVERA (2011)	IC	IC	IC
	MCGAHUEY (2011)	IC	IC	IC
12	DENINO (MOJ 2010)	IC	IC	IC
1	THURSTON (2009)	EE	EE/IC	EE/IC

13 TOTAL CASES

WHEN THE INSURANCE COMPANY IS CORRECT ON APPEAL, THE COMMISSION RULES IN FAVOR OF THE INSURANCE COMPANY 100% OF THE TIME.

THE PROCESS WORKS WHEN THE RIGHT RESULT IS THE INSURANCE COMPANY WINNING THE CASE ON APPEAL.

DECISIONS WHERE THE EMPLOYEE PREVAILED BEFORE THE SUPREME COURT

	HUIT (2016)	EE	IC	EE
	BOCKUS (2016)	EE	IC	EE
	HARRIS (2014)	EE	IC	EE
	ADAMSON (2014)	EE	IC	EE
5	DEROSARIO (2013)	EE	IC	EE
1	HUMPHREY (2014)	EE	EE/IC	EE
	ARCTEC (2013)	EE	EE	EE
2	STENSETH (2015)	EE	EE	EE
	VANDEBURG (2016)	IC	IC	EE
	EDER (2016)	IC	IC	EE
	LEWIS-WALUNGA (2011)	IC	IC	EE
	SHEHATA (2010)	IC	IC	EE
	SMITH (2009)	IC	IC	EE
	BOHLMANN (2009)	IC	IC	EE
	KELLY (2009)	IC	IC	EE
8	KIM (2008)	IC	IC	EE
	ADAMSON (2013)	--	EE	EE
2	OLSEN (2013)	--	IC	EE

18 TOTAL CASES

BUT WHEN THE EMPLOYEE SHOULD PREVAIL, THAT IS THE ALASKA SUPREME COURT RULES IN FAVOR OF THE INJURED WORKER, THE SYSTEM DOES NOT WORK AT ALL.

THE BOARD GETS IT RIGHT ABOUT 50% OF THE TIME, 8 OUT OF 16 CASES.

THE COMMISSION RULES IN FAVOR OF INSURANCE COMPANIES 14.5 TIMES OUT OF 18.

80.55% OF THE TIME, WHEN THE EMPLOYEE IS CORRECT,
THE COMMISSION RULES AGAINST HIM OR HER.

IN NONE OF THESE DECISIONS DID THE BOARD RULE AGAINST AN INJURED WORKER AND THE COMMISSION RULE IN FAVOR.

FULL INDEX OF CASES USED:

Vandenburg v. State, Department of Health and Social Services
371 P.3d 602 (Alaska 2016)

Huit v. Ashwater Burns, Inc.
372 P.3d 904 (Alaska 2016)

Eder v. M-K Rivers
382 P.3d 1137 (Alaska 2016)

Bockus v. First Student
384 P.3d 801 (Alaska 2016)

Municipality of Anchorage v. Stenseth
361 P.3d 898 (Alaska 2015)

Coppe v. Bleicher
318 P.3d 369 (Alaska 2014)

Harris v. Millennium Hotel
330 P.3d 330 (Alaska 2014)

Louie v. BP Exploration
327 P.3d 204 (Alaska 2014)

Adamson v. Municipality of Anchorage
333 P.3d 5 (Alaska 2014)

Humphrey v. Lowe's Home Improvement Warehouse
337 P.3d 1174 (Alaska 2014)

Arctec Services v. Cummings
295 P.3d 916 (Alaska 2013)

de Rosario v. Chenega Lodging
297 P.3d 139 (Alaska 2013)

Pruitt v. Providence Extended Care
297 P.3d 891 (Alaska 2013)

Municipality of Anchorage v. Adamson / Olsen
301 P.3d 569 (Alaska 2013)

Rosales v. Icicle Seafoods, Inc.

316 P.3d 580 (Alaska 2013)

Runstrom v. Alaska Native Medical Center

280 P.3d 559 (Alaska 2012)

Rivera v. Wal-Mart Stores, Inc.

247 P.3d 957 (Alaska 2011)

Lewis-Walunga v. Municipality of Anchorage

249 P.3d 1063 (Alaska 2011)

McGahuey v. Whitestone Logging, Inc.

263 P.3d 613 (Alaska 2011)

Shehata v. Salvation Army

225 P.3d 1106 (Alaska 2010)

Smith v. CSK Auto, Inc.

204 P.3d 1001 (Alaska 2009)

Bohlmann v. Alaska Construction Engineering, Inc.

205 P.3d 316 (Alaska 2009)

Thurston v. Guy's With Tools

217 P.3d 824 (Alaska 2009)

Kelly v. State Department of Corrections

218 P.3d 291 (Alaska 2009)

Kim v. Alyeska Seafoods, Inc.

197 P.3d 192 (Alaska 2008)

AWCAC/AKSC CASES NOT ON EMPLOYEE RIGHTS:

HARRIS (2014)

Harris v. Millennium Hotel, 330 P.3d 330 (Alaska 2014)

Equal protection challenge to refusing death benefits to gay partner of woman killed at work.

TITAN (2014)

State v. Titan Enterprises, LLC, 338 P.3d 316 (Alaska 2014)

Penalty against uninsured employer. AKSC reversed in part.

TONGASS

State v. Tongass Business Center, 276 P.3d 453 (Alaska 2012)

Issue of SIF reimbursement. AWCAC dismissed State's appeal and AKSC reversed.

MONZULA

Monzula v. Voorhees Concrete Cutting, 254 P.3d 341 (Alaska 2011)

Venue dispute.

BARRINGTON

Barrington v. Alaska Communication Systems, 198 P.3d 1122 (Alaska 2008)

Chiropractor's right to recover after employee settles case.

III. THE COMMISSION DOES NOT DO MUCH WORK

**CASES DECIDED IN THE LAST 8 MONTHS
BY THE ALASKA WORKERS' COMPENSATION APPEALS COMMISSION (AWCAC)
AND THE ALASKA CRIMINAL COURT OF APPEALS (CT APP)**

	AWCAC			COURT OF APPEALS		
	OPINION	MEMO	TOTAL	OPINION	MEMO	TOTAL
FEB 2017	1	1	2	8	9	17
JAN 2017	0	0	0	6	6	12
DEC 2016	0	0	0	3	17	20
NOV 2016	0	1	1	1	8	9
OCT 2016	1	0	1	1	7	8
SEP 2016	1	0	1	13	18	31
AUG 2016	1	0	1	2	6	8
JUL 2016	1	0	1	4	5	9
TOTAL	5	2	7	38	76	114

Source: <http://labor.alaska.gov/wccomm/orders.htm>

	APPEALS COMMISSION DECISIONS		
	OPINIONS	MEMO	TOTAL
2017 (TO DATE)	1	1	2
2016	9	1	10
2015	11	3	14
2014	12	3	15
2013	14	2	16
2012	16	0	16
2011	12	0	12
2010	16	2	18
2009	21	10	31
2008	28	2	30
2007	23	19	42
2006 & 2005	10	13	23
TOTAL	173	56	229
AVERAGE 2005-2016	15.6	5.0	20.6
AVERAGE 2005-2010	19.6	9.2	28.8
AVERAGE 2011-2016	12.3	1.5	13.8

Source: <http://labor.alaska.gov/wccomm/orders.htm>

APPENDIX: LIST OF CASES

DECIDED BY THE ALASKA WORKERS' COMPENSATION APPEALS COMMISSION DECISIONS

FINAL DECISIONS

McAlpine v. Denali Center and Sentry Insurance, AWCAC Dec. #232 (Feb. 9, 2017)
http://labor.alaska.gov/wccomm/memos-finals/D_232.pdf

Kang v. Alexander Mullins, AWCAC Dec. #230 (Oct. 27, 2016)
http://labor.alaska.gov/wccomm/memos-finals/D_230.pdf

Atkins v. Inlet Transportation & Taxi Service, Inc., AWCAC Dec. #229 (Sept. 26, 2016)
http://labor.alaska.gov/wccomm/memos-finals/D_229.pdf

Cornelison v. Rappe Excavating, Inc., AWCAC Dec. #228 (Aug. 3, 2016)
http://labor.alaska.gov/wccomm/memos-finals/D_228.pdf

Titan Enterprises v. State of Alaska, AWCAC Dec. #227 (July 11, 2016)
http://labor.alaska.gov/wccomm/memos-finals/D_227.pdf

MEMORANDUM DECISIONS

Interior Towing & Salvage, Inc. v. Gracik, AWCAC Dec. #233 (Feb. 3, 2017)
http://labor.alaska.gov/wccomm/memos-finals/D_233.pdf

Straight v. Johnston Construction & Roofing, LLC, AWCAC Dec. #231 (Nov. 22, 2016)
http://labor.alaska.gov/wccomm/memos-finals/D_231.pdf

**DECIDED BY THE
ALASKA COURT OF APPEALS DECISIONS**

FEBRUARY 2017

Court of Appeals Opinions

No. 2542 A-11484 Kim v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2542.pdf>

No. 2543 A-11866 Pieniasek v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2543.pdf>

No. 2544 A-11494 Johnson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2544.pdf>

No. 2538 A-10791 Wyatt v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2538.pdf>

No. 2539 A-11872 Olson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2539.pdf>

No. 2540 A-10549 Adams v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2540.pdf>

No. 2541 A-11892 Jeter v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2541.pdf>

No. 2537 A-10982 McCord v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2537.pdf>

Court of Appeals MOJs

No. 6433 A-11638/47 Gossett v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6433.pdf>

No. 6431 A-11546 Tubin v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6431.pdf>

No. 6432 A-11905 Carney v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6432.pdf>

No. 6427 A-12164 Harmon v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6427.pdf>

No. 6428 A-11646 Burrell v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6428.pdf>

No. 6429 A-11198 Stiffarm v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6429.pdf>

No. 6430 A-11788 Andrew v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6430.pdf>

No. 6425 A-11568/11577 Samskar v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6425.pdf>

No. 6426 A-11459 Erickson v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6426.pdf>

JANUARY 2017

Court of Appeals Opinions

No. 2532 A-12392 Maguire v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2532.pdf>

No. 2533 A-11682 Wagner v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2533.pdf>

No. 2534 A-12166 State v. Johnson [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2534.pdf>

No. 2535 A-11871 Forsythe v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2535.pdf>

No. 2536 A-11722 Stiner v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2536.pdf>

No. 2531 A-11534 Dirks v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2531.pdf>

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No. 6424 A-118723 Joe v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6424.pdf>

No. 6419 A-11855 Coday v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6419.pdf>

No. 6420 A-11713 Bell v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6420.pdf>

No. 6421 A-12064 Stewart v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6421.pdf>

No. 6422 A-12161 Gardner v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6422.pdf>

No. 6423 A-12326 Deng v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6423.pdf>

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Court of Appeals Opinions

No. 2529 A-12009 Akers v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2529.pdf>

No. 2530 A-12677 Tinker v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2530.pdf>

No. 2528 A-11401 Barber v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2528.pdf>

Court of Appeals MOJs

No. 6418 A-11671 Wyre v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6418.pdf>

No. 6408 A-12081 Rocero v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6408.pdf>

No. 6409 A-12413 Ball v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6409.pdf>

No. 6410 A-11259 Nelson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6410.pdf>

No. 6411 A-12340 Leedom v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6411.pdf>

No. 6412 A-11924 Welsh v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6412.pdf>

No. 6413 A-12447 Lane v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6413.pdf>

No. 6414 A-11919 Andrews v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6414.pdf>

No. 6415 A-11202 Baker v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6415.pdf>

No. 6416 A-11349/70 Haeg v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6416.pdf>

No. 6417 A-11414 Nelson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6417.pdf>

No. 6404 A-12042 Curtis v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6404.pdf>

No. 6405 A-11705 Marshall v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6405.pdf>

No. 6406 A-11331 Suiter v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6406.pdf>

No. 6407 A-12008 Lukawesky v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6407.pdf>

No. 6402 A-11789 Bearden v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6402.pdf>

No. 6403 A-11762 Goodwin v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6403.pdf>

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Court of Appeals Opinions

No. 2527 A-11536 Bass v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2527.pdf>

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No. 6401 A-11965 Alexie v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6401.pdf>

No. 6400 A-12492 Francisco v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6400.pdf>

No. 6394 A-11541 Cook v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6394.pdf>

No. 6395 A-11562 Gaskins v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6395.pdf>

No. 6396 A-11935 Bavilla v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6396.pdf>

No. 6397 A-12274/12298 Lee v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6397.pdf>

No. 6398 A-12015 Lambert v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6398.pdf>

No. 6399 A-12000 Fulling v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6399.pdf>

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Court of Appeals Opinions

No. 2526 A-11514 Starkey v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2526.pdf>

Court of Appeals MOJs

No. 6392 A-11712 Davis v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6392.pdf>

No. 6393 A-11959 Fox v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6393.pdf>

No. 6391 A-11641 Seaman v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6391.pdf>

No. 6387 A-11996 Adams v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6387.pdf>

No. 6388 A-12003 Welty v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6388.pdf>

No. 6389 A-12043 Butler v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6389.pdf>

No. 6390 A-12486 Rasmussen v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6390.pdf>

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Court of Appeals Opinions

No. 2521 A-12141 Olson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2521.pdf>

No. 2522 A-11408 Thomas v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2522.pdf>

No. 2523 A-11755 Sapp v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2523.pdf>

No. 2524 A-12032 Hillman v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2524.pdf>

No. 2525 A-12332 M.H. v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2525.pdf>

No. 2519 A-11019 Lane v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2519.pdf>

No. 2520 A-11320 Miller v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2520.pdf>

No. 2513 A-11425 Hess v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2513.pdf>

No. 2514 A-11822 Trumbly v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2514.pdf>

No. 2515 A-11865 State v. Evans [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2515.pdf>

No. 2516 A-11755 Sapp v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2516.pdf>

No. 2517 A-11299 Moran v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2517.pdf>

No. 2518 A-12014 AB&M Enterprises, Inc. v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2518.pdf>

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No. 6385 A-11526 State v. Nicolai [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6385.pdf>

No. 6386 A-11470 Pierren v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6386.pdf>

No. 6381 A-11797 Tanner v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6381.pdf>

No. 6382 A-11606 Windsor v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6382.pdf>

No. 6383 A-11928 Doores v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6383.pdf>

No. 6384 A-11944 Custer v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6384.pdf>

No. 6377 A-12641 Michael v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6377.pdf>

No. 6378 A-11560 Ripplinger v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6378.pdf>

No. 6379 A-11522 Murphy v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6379.pdf>

No. 6380 A-11770 Bankhead v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6380.pdf>

No. 6376 A-11782 Holden v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6376.pdf>

No. 6369 A-11661 Lovett v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6369.pdf>

No. 6370 A-11601 Corbett v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6370.pdf>

No. 6371 A-11280 Richardson v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6371.pdf>

No. 6372 A-11338 Timmer v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6372.pdf>

No. 6373 A-11611 Lewis v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6373.pdf>

No. 6374 A-11709 Wilde v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6374.pdf>

No. 6375 A-11706 Smith v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6375.pdf>

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Court of Appeals Opinions

No. 2512 A-12619 Grant v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2512.pdf>

No. 2511 A-11742 Savo v. State [criminal]
<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2511.pdf>

Court of Appeals MOJs

No. 6368 A-11683 Debeaulieu v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6368.pdf>

No. 6367 A-11555 Frank v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6367.pdf>

No. 6363 A-11535 Lundy v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6363.pdf>

No. 6364 A-11593 Tolotta v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6364.pdf>

No. 6365 A-11553 Barber v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6365.pdf>

No. 6366 A-12021 Merriner v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6366.pdf>

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No. 2507 A-10972 Palmer v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2507.pdf>

No. 2508 A-11839 Hinson v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2508.pdf>

No. 2509 A-12549 Buckley v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2509.pdf>

No. 2510 A-11688 State v. Borowski [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/ap-2510.pdf>

Court of Appeals MOJs

No. 6359 A-10916 Zaukar v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6359.pdf>

No. 6360 A-11164 Herring v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6360.pdf>

No. 6361 A-11531 Halla v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6361.pdf>

No. 6362 A-11893 Conway v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6362.pdf>

No. 6355 A-11654 Wassilie v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6355.pdf>

No. 6356 A-11610 Elia v. State [criminal]

<http://www.courtrecords.alaska.gov/webdocs/opinions/ops/am-6356.pdf>

April 14, 2017

Senate Judiciary Committee
Chair Senator John Coghill
Senator Mia Costello
Senator Pete Kelly
Senator Bill Wielechowski
Senator Mike Dunleavy

Mr. Chairman and Members of the Senate Judiciary Committee,

Thank you for the opportunity to testify on HB 29, the bill to repeal the Alaska Workers' Compensation Appeals Commission (AWCAC or the Commission). I testified before House Judiciary on March 10 and have attached the documentation from that testimony. In this letter, I also update the numbers on recent cases.

I know your time is limited and valuable so I will be succinct.

I want to make three points about the Commission. First, the Commission decisions over the last 11 years show a distinct and clear bias against injured workers and in favor of insurance companies. It is not a fair or balanced tribunal. Second, the Commission does not do very much work compared to other appeals courts. You get very little bang for your ½ million bucks. Third, the Commission has not brought the uniformity and clarity to workers' compensation law that was promised. Often the Commission decisions create more confusion.

I have given the Committee staff an 18-page packet of information backing up and supporting these points, with tables, data, and a complete list of cases.

COMMISSION DECISIONS ARE OVERWHELMINGLY IN FAVOR OF INSURANCE COMPANIES

This is a contentious point so I want to be clear on the numbers and cases I am using to prove it.

I reviewed the breakdown provided to this committee by former Commissioner Andy Hemenway and talked to him by phone about his research. I generally agree with his numbers and conclusions. We agree that the Commission has decided 229 cases and 100 have been appealed to the Alaska Supreme Court. He states that 39 of these cases result in decisions as opposed to dismissals or other action short of decisions and 5 cases are pending.

I have been able to find 36 of these decisions and take his word that there are 3 more out there, likely old unpublished MOJ opinions that are, being old and unpublished, harder to find. So basically, Mr. Hemenway and I agree on the cases and the data.

He concludes that the Commission has a reversal rate around 50% and I believe has testified before this Committee that this is comparable to the superior court reversal rate. I have no reason to doubt him on these points.

I asked a different question, namely how often does the Commission rule for injured workers and how often for insurance companies? Specifically, how often does the Commission get it right?

I have reviewed each of the 36 decisions preparing for today's testimony. Five of the published opinions are not on the merits of employee benefits but concern other issues, for instance Harris was about whether a gay couple had rights under the Act, a question the Commission cannot decide, and Titan was about an employer who was fined for failing to get workers' compensation insurance. Removing these 5 left me with 31 decisions on employee benefits.

In the attachment to this letter, I noted whether the Board, the Commission, and eventually the Supreme Court substantially ruled in favor of the employee or the insurance company in each of the 31 cases. (In two cases the result was mixed and I noted that, counting it as a split.)

In these cases, the Commission ruled in favor of insurance companies over 85% of the time.

In the 13 cases where the insurance company position was wholly or mainly affirmed by the Supreme Court, the Appeals Commission ruled for the insurance company in all 13. The Commission is very good at spotting when the insurance company should win.

In the 18 cases where the employee's legal position was correct, the Commission ruled in favor of the employee in only 3.5 cases or less than 20%. The Board in these decisions was correct exactly 50% of the time. The conclusion from this data is that even where the employee is entitled to benefits, the Commission will rule for the insurance company over 80% of the time.

So how can Mr. Hemenway be right that the Commission has generally a 50% reversal rate? Simple. The Commission almost always rules for the insurance company and they are right half the time. The Board and the Supreme Court take a much more balanced approach. But the Commission reaches largely the same conclusion regardless of the merits. When the insurance company has the better argument, the Commission rules in their favor 100% of the time. When the injured worker has the better argument, the Commission still rules for the insurance company over 80% of the time. It does not let the facts get in the way.

This conclusion supports what I have seen as a practicing attorney representing injured workers. I counsel my clients that they have almost no chance of winning at the Commission regardless of the merits of their case. The deck is simply too stacked against them. Even when their legal position is correct, they lose 4 out of 5 times before the Commission.

THE COMMISSION DOES NOT DO MUCH WORK

As of December 20, 2016, Mr. Hemenway noted that the Commission has issued 229 published decisions in its 11-year history.

In the attachment, I list the number of decisions issued per year. This is an average of just under 21 decisions per year. But the number of decisions issued has been falling for some years. Over the first 5 years, the average was just under 29 per year. (Because the Commission was formed in November 2005, these are included in 2006.) Over the last five years, from 2011 thru 2016, the average number of decisions issued per year has been under 14 per year. That is about one per month.

As a point of comparison, I counted the number of decisions issued in the last 8 months by both the WC Commission and the criminal Court of Appeals, another 3-member appeals panel in Alaska. In that period, the Criminal Court of Appeals issued 114 decisions or about 14-15 per month. There are 3 attorneys on this court, so each was writing about 4-5 opinions per month. In that same period, the WC Commission issued 7 decisions, or less than one per month. Put simply, each member of the Court of Appeals did about 5 times as much work as the AWCAC Commissioner.

This 8 month period was from July 2016 through February 2017. I have now reviewed the March and first two weeks of April, an approximate 6 week period. In that time, the Commission has issued 1 decision, on March 15. In that same period, the Court of Appeals issues a total of 25 opinions.

By any standard, the Commission does not do much work.

THE COMMISSION HAS NOT PROVIDED THE LEGAL CLARITY PROMISED

Part of the original justification for the Commission was that it could provide consistent and reliable legal precedents for the Board to follow. This has not come to pass. The Commission decisions often lack clarity and sometimes create confusion themselves. In Hudak v. Pirate Airworks, Inc., the Commission denied a petition for review without adequate explanation and the Supreme Court was forced to order the Commission to explain itself. In Thurston v. Guys with Tools, 217 P.3d 824 (Alaska 2009), the Commission decision was so difficult to understand that the Supreme Court granted an appeal to clarify the law. This is the job the Commission was supposed to perform.

Sometimes the Commission doesn't seem to read its own decisions. An important issue in workers' compensation is who pays medical bills for injured workers when they win at the board and the insurance company appeals. On January 25, 2012, the Commission issued a

unanimous decision that the injured worker, in this case a firefighter with cancer, should receive medical benefits pending appeal unless the insurance company can show a "likelihood of success on the merits". Six days later, on January 31, 2012, in another case, the Commission ruled unanimously that the insurance company only needed to show "serious and substantial legal questions" and denied medical benefits pending appeal. Within one week, the Commission had used two very different legal standards to address the same question. The Alaska Supreme Court was forced to grant petitions for review in both cases, consolidate them, and issue a ruling clarifying the correct rule of law. Adamson v. MOA, 301 P.3d 569 (Alaska 2013).

Not only does the Commission not clear up the law, it sometimes confuses it further, even contradicting itself.

In conclusion, the Commission has a very clear bias in favor of insurance companies, does not do much work compared to other appeals courts, and has brought confusion rather than clarity to the law. The repeal of the Commission is long overdue. Please vote to repeal it and allow injured workers a fair chance in appeals of Board decisions.

Thank you for your time.

Sincerely

Eric Croft