

Alaska Workers' Compensation Appeals Commission

2007 Annual Report

Submitted to the Office of the Lieutenant Governor

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Alaska Workers' Compensation Appeals Commission

1016 W. Sixth Ave., Suite 405

Anchorage, AK 99501

Tel: 907-269-6738

awcac_clerk@labor.state.ak.us

Kristin Knudsen, Chair

Alaska Workers' Compensation Appeals Commission

2007 Annual Report

- Introduction

The Alaska Workers' Compensation Appeals Commission was created in the Department of Labor and Workforce Development in 2005, by passage of SB 130 (ch. 10 FSSLA 2005). The commission is responsible for administrative adjudication of appeals from the Workers' Compensation Board. *See* AS 23.30.008, AS 23.30.125-128. The commission provides a thoughtful, prompt, and consistent review of workers' compensation cases by a balanced review panel experienced in workers' compensation law. The commission is committed to ensuring that "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." AS 23.30.001. In 2006, the commission completed its first full year of hearing workers' compensation appeals and carrying out its administrative functions.

The commission chair's duties are prescribed by law. AS 23.30.009. One of the chair's duties is to "not later than March 15th of each year, make available to the public and file with the lieutenant governor a report regarding the commission for the prior calendar year, including data regarding time periods between initial receipt and final decisions on appeals." AS 23.30.009(c). This is the second annual report of the commission chair.

- Members of the Commission

The commission consists of a chair and four representative members. Each representative member must each have at least 18 months of experience as a member of the Alaska Workers' Compensation Board. Two members represent employees

and two members represent employers. The chair must be an attorney who has been engaged in the active practice of law at least five years in the State of Alaska, with experience in workers' compensation law in this state. The Chief Administrative Law Judge announces and reviews the applications for each vacancy on the commission, and a list of qualified nominees is forwarded to the Governor for appointment. The Alaska State Legislature must confirm appointees. Due to the staggering of the five-year terms, there will be a vacancy to be filled on the commission every year. Avoiding vacancies is a concern of the commission because every appeal is heard by a full, balanced panel, and no panelist may hear cases if they have a connection with a party.

The current appeals commission members are, in order of expiration of term:

- **Chris N. Johansen**, Fairbanks, was appointed to complete the term of Marc D. Stemp, who resigned effective October 30, 2006. A registered professional engineer and licensed mechanical administrator, he was employed 19 years by Flowline, Inc., before moving to Alaska Tent and Tarp Research and Development as project engineer. He holds a Civil Engineering degree from University of Alaska, Fairbanks. He served as a management member of the workers' compensation board on the northern panel. His term expires by March 1, 2007. Employer representative.
- **John Giuchici**, Fairbanks, retired after 21 years as a business representative for Local 1547, IBEW/NECA AFL-CIO. He was previously a power lineman for Grasley & Associates, PDQ Construction, Norcon, Inc., Power City, Southern Electric, Hardline/Meyers, Primary Electric and Golden Valley Electric. He was a labor member of the workers' compensation board, and appointed to a three-year term in November 2005. His term expires March 1, 2008. Employee representative.
- **Philip E. Ulmer**, Eagle River, maintains the professional credentials of a registered professional engineer and Certified Workers' Compensation

Professional. He is currently employed as manager of safety and worker's compensation for GCI. He is a previous national president of the American Society of Safety Engineers and of the National Institute for Engineering Ethics. He was a 1994 Engineer of the Year finalist with the Alaska Society of Professional Engineers. He was appointed to four-year term in November 2005. His term expires March 1, 2009. Employer representative.

- **Kristin Knudsen**, Anchorage, from 1989 until her appointment, was employed by the Alaska Department of Law as an assistant attorney general specializing in workers' compensation law. Previously, she was a hearing officer for the Alaska Workers' Compensation Board, an appellate brief writer for claimant's attorney Chancy Croft, and a contract hearing officer for the Oregon Workers' Compensation Appeals Board. She received her J.D. degree from Santa Clara University in California and a bachelor's degree in history from the University of California Los Angeles. She was appointed in November 2005 to serve a five-year term as the appeals commission chair. Her term expires March 1, 2010.
- **Jim Robison**, Eagle River, is the former president of the Alaska AFL-CIO and the Alaska State District Council of Laborers; served on the Apprenticeship Appeals Board of the Operating Engineers; a former Commissioner of the Alaska Department of Labor for Governor William Sheffield. He served as a labor member of the workers' compensation board. His first term expired March 1, 2006. He was reappointed to a five-year term in 2006. His term expires March 1, 2011. Employee representative.

The Chief Administrative Law Judge has forwarded names and information on qualified applicants to the Governor's Office for a nomination to fill the impending vacancy for an Employer Representative beginning March 1, 2007.

- Appeals Filed in the Commission

In 2006, 42 merit appeals (Appeal) and motions for extraordinary review (MER) were filed. In addition, the commission issued decisions in cases filed in 2005 (shown shaded in the table below). Those cases shown in bold type are now closed cases; in those cases the date of the commission's final decision is in the second column.

| Date Filed | Date Closed | Name of case, AWCAC Appeal Number (type of appeal) |
|------------|-------------|---|
| 22 Nov 05 | 24 Mar 06 | Republic Parking Systems vs. Levine, Appeal No. 05-001 (Appeal) |
| 1 Dec 05 | 24 Mar 06 | Levine vs. Republic Parking Systems, Appeal No. 05-002 (Appeal) |
| 1 Dec 05 | 7 Sep 06 | Jones vs. Frontier Flying Serv., Inc., Appeal No. 05-003 (Appeal) |
| 8 Dec 05 | 21 Feb 06 | Eagle Hardware vs. Ammi, Appeal No. 05-004 (MER) |
| 17 Dec 05 | | <i>Morgan vs. Alaska Regional Hospital, Appeal No. 05-005 (Appeal)</i> |
| 21 Dec 05 | 27 Jan 06 | Smith vs. CSK Auto, Inc. Appeal No. 05-006 (MER) |
| 21 Dec 05 | 30 Jan 07 | Tonoian vs. Pinkerton Security, Appeal No. 05-007 (Appeal) |
| 22 Dec 05 | 2 Mar 06 | Doyon Drilling Inc. vs. Whitaker, Appeal No. 05-008 (Appeal) |
| 29 Dec 05 | 4 Aug 06 | S&W Radiator Shop vs. Flynn, Appeal No. 05-009 (Appeal) |
| 9 Jan 06 | 13 Jul 06 | Witbeck vs. Superstructures, Inc., Appeal No. 06-001 (Appeal) |
| 13 Jan 06 | 27 Jul 06 | Weigle vs. Schlumberger Well Services, Appeal No. 06-002 (Appeal) |
| 17 Jan 06 | 7 Mar 06 | Municipality of Anchorage vs. Syren, Appeal No. 06-003 (MER) |
| 23 Jan 06 | | <i>Peak Oilfield Service Co. vs. Lindgren, Appeal No. 06-004 (Appeal) (suspended at request of appellee for proceedings before board)</i> |
| 23 Jan 06 | 2 Mar 06 | Municipality of Anchorage vs. Boling, Appeal No. 06-005 (MER) |
| 2 Feb 06 | 23 Jun 06 | Adepoju vs. Fred Meyer Stores, Inc., Appeal No. 06-006 (Appeal) |
| 21 Feb 06 | 28 Apr 06 | Berrey vs. Arctec Services, Appeal No. 06-007 (MER) |
| 17 Mar 06 | 8 Dec 06 | Bohlmann vs. Alaska Constr & Engineering, Inc., Appeal No. 06-008 (Appeal) |
| 30 Mar 06 | | <i>Alaska Airlines vs. Nickerson, Appeal No. 06-009 (Appeal) (remanded to board for further hearing, returned to commission for final decision)</i> |
| 24 Apr 06 | | <i>Terry Smith vs. CSK Auto Inc., Appeal No. 06-010 (Appeal) arg: 2/28/2006</i> |
| 24 Apr 06 | 2 Feb 07 | Wolford vs. Hanson, Appeal No. 06-011 (Appeal) |
| 4 May 06 | 13 Jun 06 | Terry Smith vs. CSK Auto Inc., Appeal No. 06-012 (MER) |
| 5 May 06 | 2 Jun 06 | Alaska Ins. Guar. Assoc. vs. Simons, Fairbanks Nissan, & Alaska Workers' Comp. Benefits Guar. Fund, Appeal No. 06-013 (MER) |

| | | |
|-----------|-----------|---|
| 11 May 06 | 7 Aug 06 | <i>Wrangell Seafoods, Inc. vs. State, Dep't of Labor, Appeal No. 06-014 (Appeal)</i> |
| 1 Jun 06 | 12 Feb 07 | <i>Barrington vs. Alaska Communication Group, Appeal No. 06-015 (Appeal)</i> |
| 5 Jun 06 | 28 Aug 06 | <i>Terry Smith vs. CSK Auto, Inc., Appeal No. 06-016 (MER)</i> |
| 29 Jun 06 | | <i>North Slope Borough vs. Wood, Appeal No. 06-017 (Appeal) arg: 4/13/2007</i> |
| 24 Jul 06 | | <i>Khan vs. Adams & Associates, Appeal No. 06-018 (Appeal)</i> |
| 16 Aug 06 | 22 Nov 06 | <i>Jimo vs. Universal Health Services, Inc., Appeal No. 06-019 (Appeal)</i> |
| 21 Aug 06 | | <i>Dean vs. Fairbanks North Star Borough, Appeal No. 06-020 (Appeal)</i> |
| 22 Aug 06 | | <i>Harris vs. Salvation Army, Appeal No. 06-023 (Appeal)</i> |
| 23 Aug 06 | | <i>Walsh vs. Mauer, Appeal No. 06-021 (Appeal) arg: 3/23/2007</i> |
| 24 Aug 06 | | <i>Geister vs. Kid's Corp., Inc., Appeal No. 06-022 (Appeal)</i> |
| 25 Aug 06 | | <i>Northstar Sand & Gravel vs. Sanders, Appeal No. 06-024 (Appeal) argument 3/13/2007</i> |
| 23 Aug 06 | | <i>Lawhorne vs. Alaska Garden & Pet Supply, Inc., Appeal No. 06-025 (Appeal)</i> |
| 13 Sep 06 | | <i>Kim vs. Alyeska Seafoods, Inc., Appeal No. 06-026 (Appeal) arg: 3/8/2007</i> |
| 3 Oct 06 | | <i>James Smith vs. Anchorage School Dist., Appeal No. 06-027 (Appeal)</i> |
| 4 Oct 06 | 19 Oct 06 | <i>Anchorage School Dist. vs. Delkettie, Appeal No. 06-028 (Appeal)</i> |
| 23 Oct 06 | | <i>Omar vs. Unisea, Inc., Appeal No. 06-029 (Appeal)</i> |
| 24 Oct 06 | | <i>Kelly vs. State, Dep't of Corrections, Appeal No. 06-030 (Appeal)</i> |
| 30 Oct 06 | | <i>Walters vs. Crazy Horse, Inc., Appeal No. 06-031 (Appeal , Cross-appeal)</i> |
| 15 Nov 06 | | <i>Hansen vs. McHoes, Appeal No. 06-032 (Appeal)</i> |
| 20 Nov 06 | | <i>Olafson vs. State, Appeal No. 06-033 (MER granted, now Appeal)</i> |
| 22 Nov 06 | | <i>Conam Constr. Co. vs. Bagula, Appeal No. 06-034 (Appeal)</i> |
| 27 Nov 06 | | <i>Sullivan vs. Hogan, Appeal No. 06-035 (Appeal)</i> |
| 27 Nov 06 | | <i>Sourdough Express, Inc. vs. Baron, Appeal No. 06-036 (MER granted, now Appeal)</i> |
| 4 Dec 06 | 11 Jan 07 | <i>Chena Hot Springs vs. Elliott, Appeal No. 06-037 (MER)</i> |
| 15 Dec 06 | 28 Dec 06 | <i>Wolf Dental Services, Inc. vs. Wolf, Appeal No. 06-038 (Appeal)</i> |
| 19 Dec 06 | | <i>Guys with Tools vs. Thurston, Appeal No. 06-039 (Appeal)</i> |
| 22 Dec 06 | | <i>Kuukpik Arctic Catering vs. Harig, Appeal No. 06-040 (Appeal)</i> |
| 26 Dec 06 | | <i>McGahuey vs. Whitestone Logging, Inc., Appeal No. 06-041 (Appeal)</i> |
| 29 Dec 06 | | <i>ENCO Heating vs. Borgens, Appeal No. 06-042 (MER)</i> |

- **Timeliness of Decisions**

In 2006, 22 published decisions were issued by the end of the reporting period with 7 of those 22 being from 2005 cases. Another five cases were closed with decisions within the first three weeks of January 2007. The commission held 21 hearings of oral argument. Oral argument hearings mostly concerned the merits of appeal or motions for extraordinary review, but hearings also were held on subsidiary motions to stay, etc., that resulted in a decision. In addition, the commission chair held status hearings and calendaring hearings by telephone. The commission clerk has assumed the responsibility of calendaring hearings, with reference to the chair only when a continuance is required.

The commission began this year to distinguish between final decisions and memorandum decisions in order to delineate decisions that result in conclusion of the administrative adjudication process from those that do not. A memorandum decision may concern a motion for extraordinary review or other motions, or a remand of an appeal to the board for further findings or proceedings. In addition, the commission chair and the commission issue unpublished routine orders on motions for extension of time, routine motions to waive fees due to indigence, and similar procedural matters. Attachment 1 lists the commission decisions published in 2006. Copies of the commission's decisions are available on the commission web site.

The commission is allowed 90 days from oral argument or close of briefing to issue decisions. The average number of days between hearing a motion or appeal and issuing a written decision during the reporting period was 32 days. The average time from oral argument (or close of briefing if no hearing was held) to decision distribution during the reporting period is:

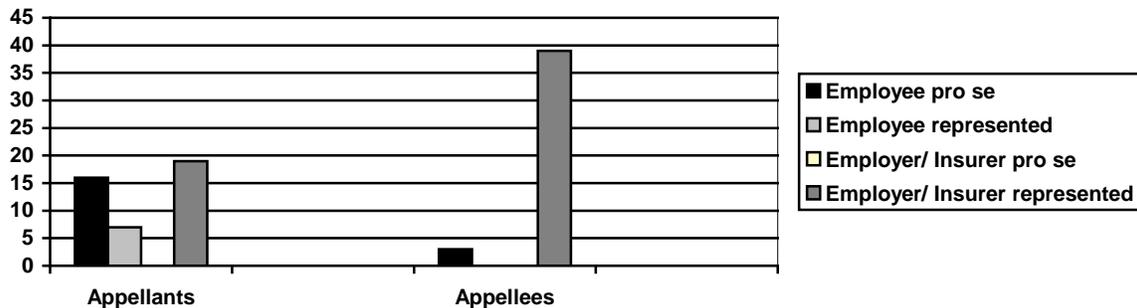
- Final Decision: 42 days
- Memorandum Decision & Order: 23 days

Attachment 2 shows the time from oral argument or close of briefing to the date a decision is issued for all matters heard in 2006. The average number of days between

hearing a motion or appeal during the reporting period and issuing a written decision, including decisions published in 2007, was 33 days. No decisions in 2006 exceeded the commission's time limit.

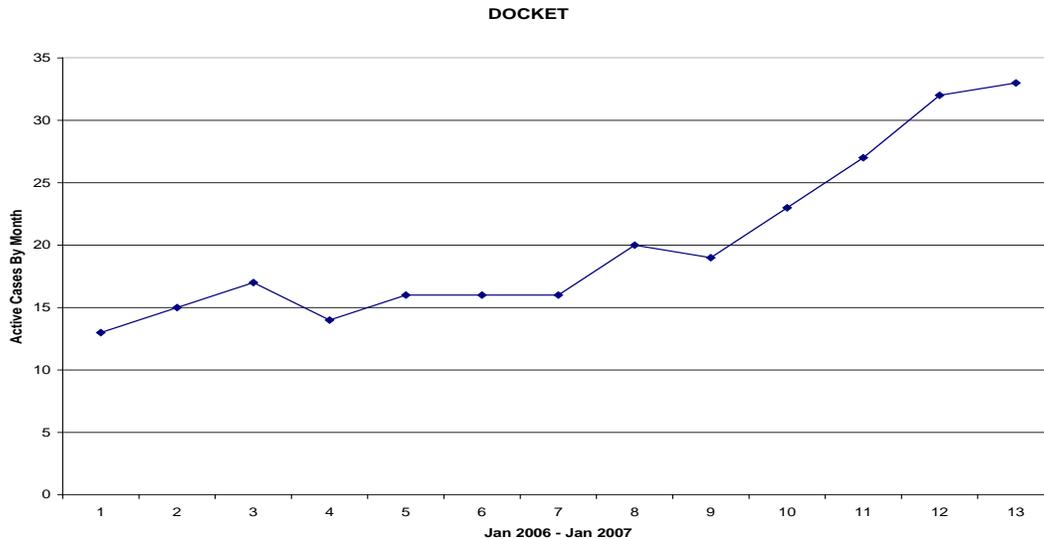
In addition to issuing timely decisions, the commission is working to establish a reasonable file clearance rate of the cases appealed to it. Of the 42 appeals filed in 2006, 12 appeals had been closed by decision or settlement by the end of the reporting period; three more were closed by the date of this report. Of the nine cases filed in 2005 and remaining open in 2006, only one remains open, and a draft decision is circulating in that case.

Sixteen of the 42 appeals or motions for review filed in 2006 were filed by self-represented employees and seven appeals or motions for review were filed by employees who were represented by counsel. The remaining 19 appeals or motions for review were filed by employers or other parties. In each of the 16 self-represented employee appeals, the appellee or respondent was represented by legal counsel; of the other 26 appeals or motions filed by counsel, only 3 appellees or respondents were self-represented. Below is a graphic illustration.



The following graph shows the number of active docketed cases per month from January 2006 to January 2007. For the first eight months of 2006, the case load stayed fairly steady. In September, the docketed case load began a steady increase, more than doubling the number of active cases before the commission from 13 at the

beginning of 2006 to 31 as of January 2007 (does not include cases closed by settlement or decision).



The number of self-represented (pro se) litigants impacts commission's ability to review appeals in a timely fashion. Delays are caused by frequent requests from pro se litigants for additional time to write their briefs or respond to their opponents. To reduce delay and assure pro se litigants the "opportunity to have their arguments . . . fairly considered," the commission makes a computer station available in Anchorage, provides access to the appeal record, and provides up to 100 pages of free copies from the record. Pro se appellants' motions to waive fees due to indigence, which must be considered by the whole commission, are another cause of delay. On motions to waive fees due to indigence, the commission found seven appellants indigent and ordered full or partial waiver of fees. The commission ordered four transcripts of board hearings prepared in indigent appeals, at a total cost to the commission of \$1,830.40 in 2006. Until the court system's rules for appeals are in place, the commission is providing transcripts of the digital recordings of hearings before the commission to the court system.

Another source of delay is the need to work around the commission members' calendars and conflicts. While the chair may shift assignments among representative

members to avoid conflicts or planned absences, there is only one chair. Appointment of a pro tem chair is requested when a conflict exists with the sitting chair or the chair is absent for more than two weeks. No appeals filed in 2006 required appointment of a chair *pro tem* due to the chair's conflict, although one (1) decision was issued in 2006 by a panel presided over by a *pro tem* on an appeal filed in 2005. No appointments of a *pro tem* were required due to chair absence in 2006.

Of the decisions issued by the commission in 2006, two decisions were later appealed to the Supreme Court (one of the two was appealed in 2007). Additionally, one appellant asked to file a late appeal from a commission decision and was granted permission by the Court to file an appeal. At the time of this writing, the deadline set by the Court has passed and the commission had received no notice of appeal. None of the appeals to the Supreme Court have reached the briefing stage. Outside the appeal process, a single petition for review was filed in the Supreme Court. The Court denied the petition for review.

- Meetings of the Commission

The commission meets publicly as a full panel for reasons expressed in AS 23.30.007(i) and .008(c). In addition, the commission meets as a full panel for periodic training.

The commission held its first public meeting of 2006 on Monday, February 27, 2006. At this meeting, the commission discussed progress on construction of the hearing room, docket statistics, development of an appellant's instruction packet, a commission seal design, proposed changes and adoption of permanent regulations, and future training.

A short public business meeting was held on Monday, May 8, 2006. The meeting was then closed to the public to provide commissioner training by Terry Thurbon, Chief Administrative Law Judge, State of Alaska, and Jacqueline Kinnaman,

Arbitrator and former member of the Workers' Compensation Appeals Commission in Chicago, Illinois.

A brief public meeting to allow public comment was held on Monday, November 20, 2006. The remainder of the meeting was closed to the public for commissioner training, provided by Terry Thurbon, Chief Administrative Law Judge, Chief Justice Dana Fabe, Alaska Supreme Court, and Margaret Paton-Walsh, Assistant Attorney General, State of Alaska.

The commission chair approached the National Judicial College about providing training for Alaska's appeals commission members. The College's response was to invite the commission chair to help organize a week of training in Portland, Oregon for members of western states appellate level boards and commissions. The goal is that this training session be organized this year for presentation next year.

- **Other Commission Activity**

The chair of the commission and appeals commission clerk (administrative assistant), hired a deputy commission clerk, (clerk II), who began work August 14, 2006. The chair acknowledges the expert assistance of Janet Parker, Administrative Manager for the Workers' Compensation Division, throughout the effort to develop the commission's infrastructure. The chair and the commissioners appreciate the willingness of the Division of Workers' Compensation to extend her services to the commission. Ms. Parker retired December 31, 2006, and will be greatly missed.

The transfer of records of cases on appeal from the Alaska Workers' Compensation Board has been smooth, with few delays and only one occasion requiring the commission to request a search for missing records. The chair and the commissioners are grateful for the good will and valuable assistance of Marie Jankowski, the Workers' Compensation Division's Appeals Clerk, in this effort.

The chair established regular publication schedule with Lexis-Nexis and WestLaw, the two largest commercial legal databases. This effort required

reformatting of commission decisions and installation of necessary software. However, the commission's decisions are now published to WestLaw and Lexis-Nexis within one week of distribution. The commission web site continues to suffer from a lack of prompt updates. The commission is dependent on non-commission staff for web site updates, and is not permitted, due to web site security concerns, to manage the site information and catalogs. As a result of the delay, the commission chair recently requested the chair of the workers' compensation section to distribute five decisions.

Located at 1016 W. Sixth Ave. in Anchorage, the commission's permanent hearing room is shared with the Alaska Labor Relations Agency (ALRA) and the OSHA Review Board. ALRA staff and the commission staff worked together on the design, construction, and furnishing of the hearing room. Construction was completed in January 2006 with minimal delay. Final furnishings and equipment were received and installed in September 2006.

The change to a new digital phone system resulted in loss of the analog speaker phone connection. Despite the best efforts of Worldwide Technologies, the state's enterprise technology staff, and GCI, the caller cannot reliably hear what is being said and recorded in the hearing room. The commission is endeavoring to locate an acceptable substitute that will permit line-in, line-out phone connections to the recorder-mixer deck. This substitute may result in the purchase of a new phone and additional peripherals for the hearing room, but it will be necessary so that telephonic participants reliably hear what is being recorded.

The commission and the ALRA have neighboring offices and share some library resources. The ALRA staff has been very helpful in training commission staff. In addition, some training has been offered to the commission staff through the Alaska Court System and the Alaska Bar Association. The commission staff has begun on-line training in the use of the commission's digital recording software.

Due to the number of self-represented appellants, the chair wrote a booklet of instructions in simple language on how to file an appeal in the commission. The first draft of this document was completed by the end of 2005 with a final version available for distribution at the beginning of 2006. It has been successful in providing guidance to self-represented parties. Soon afterward, the chair and clerk developed an instruction booklet for self-represented parties who are responding to an appeal. The commission plans to develop a similar booklet for those who wish to file and respond to motions. Assuming the commission receives technical assistance, several commission forms now in draft development should be posted to the web site by the end of 2007. The user should be able to complete the forms on-line, print the completed form, and submit the form by mail, fax, or electronically.

Oral argument in *AKPIRG vs. State*, 3 AN 05-11945, (seeking a declaration that the commission was unconstitutional), took place on January 25, 2006. Superior Court Judge Sen Tan ruled in favor of the state on May 31, 2006. AKPIRG appealed to the Supreme Court. At the end of 2006, the issue was fully briefed and a date set for oral argument in April 2007.

- Recommendations of the Commission

The commission has no recommendations at this time.

- Conclusion

In this first full year of the commission's existence, the commission set to its work of hearing oral argument, conducting hearings on motions and appeals, and issuing decisions. As a result of training, the commission has developed collegial processes for formal deliberation of cases and began to distribute the workload of decision writing more broadly. In addition, the commission adopted permanent regulations to guide appeals from the Alaska Workers' Compensation Board, undertook training initiatives, arranged commercial publication of its decisions, and put its infrastructure in place.

Submitted February _____, 2007.



Kristin S. Knudsen, Chair
Alaska Workers' Compensation Appeals Commission

| 2006 DECISIONS | | | | |
|----------------|------------|---|--|--|
| DECISION NO. | APPEAL NO. | PARTIES | ACTION | COMMISSION DECISION |
| 02 | 05-008 | T. Smith vs. CSK Auto, Inc. | Motion for Extraordinary Review | DENIED The board's decision was incomplete. |
| 03 | 05-004 | Eagle Hardware & Garden vs. Ammi | Motion for Extraordinary Review | DENIED The board decision was not ripe for review. |
| 04 | 06-004 | Peak Oilfield Service Co. vs. Lindgren | Motion for Stay | STAYED payment of certain lump sum compensation; DENIED stay of on-going periodic payment of compensation and medical benefits |
| 05 | 05-009 | S&W Radiator Shop vs. Flynn | Motion for Stay | GRANTED See Dec. No. 16 below. |
| 06 | 05-008 | Doyon Drilling vs. Whitaker | Motion for Stay and Motion to Dismiss | VACATED board's 12/05 order and REMANDED the case to board for further proceedings; DISMISSED appeal and VACATED our stay |
| 07 | 06-003 | Municipality of Anchorage vs. Syren | Motion for Extraordinary Review | DENIED |
| 08 | 05-008 | Doyon Drilling vs. Whitaker | Motion for Attorney Fees | AWARDED appellee attorney fees |
| 09 | 06-007 | Berrey vs. Arctec Services | Motion for Extraordinary Review | DENIED |
| 10 | 06-006 | Adepoju vs. Fred Meyer Store | Appeal Transferred to Commission | DECLINED jurisdiction; SUSPENDED consideration for 60 days; DIRECTED Adepoju to request Superior Court to vacate order transferring appeal to commission – appeal now in superior court |
| 11 | 06-013 | Alaska Ins. Guaranty Ass'n vs. Simons, Fairbanks Nissan | Motion for Extraordinary Review | DENIED |
| 12 | 06-012 | T. Smith vs. CSK Auto, Inc. | Motion for Extension of Time and Motion for Extraordinary Review | DENIED extension; DENIED extraordinary review |
| 13 | 05-005 | Morgan vs. Alaska Regional Hospital | Motion for Waiver of Transcript Costs | DENIED complete waiver; GRANTED cost be split between parties |
| 14 | 06-001 | Witbeck vs. Superstructures, Inc. | Appeal | AFFIRMED board denial of compensation rate adjustment, determination of noncooperation, & termination reemployment benefits; VACATED board denial of medical and related transportation costs; REMANDED medical benefits claim |
| 15 | 06-003 | Municipality of Anchorage vs. Syren | Motion for Atty Fees | AWARDED a fully compensatory & reasonable atty fee to Syren |
| 16 | 05-009 | S&W Radiator Shop vs. Flynn | Appeal | VACATED and REMANDED case to board for further findings. |
| 17 | 06-016 | T. Smith vs. CSK Auto, Inc. | Motion for Extraordinary Review | DENIED extraordinary review (no board action yet to review) |
| 18 | 05-003 | J. Jones vs. Frontier Flying Service, Inc. | Appeal | AFFIRMED board's findings as supported by substantial evidence |
| 19 | 06-018 | Khan vs. Adams and Assoc. | Motion to Waive Transcript, Filing Fees | DENIED filing fee waiver; GRANTED transcript fee waiver |
| 20 | 06-001 | Witbeck vs. Superstructures, Inc. | Reconsideration | DENIED but modified order of remand to provide additional guidance to the board |
| 21 | 06-009 | Alaska Airlines vs. Nickerson | Appeal | REMANDED to board for further findings; RETAIN JURISDICTION to decide appeal once board has made findings of fact |
| 22 | 06-028 | Anchorage School District vs. Delkettie | Motion for Stay | DENIED stay as to compensation and medical benefits for shoulder injury and reemployment benefits stipend; GRANTED stay as to award of a future permanent partial impairment rating or compensation for mental illness claim; DENIED stay as to medical benefits in the form of reimbursement for out-of-pocket expenses for treatment; GRANTED stay as to medical benefits in the form of personal insurance for treatment expenses |
| 23 | 06-008 | Bohlmann vs. Alaska Construction | Appeal | AFFIRMED board's dismissal of claim as supported by substantial evidence in whole record, no legal excuse from operation of statute |

Attachment 1

**DECISION TIME TO DISTRIBUTION
For Matters Heard in 2006**

| Decision No. | Appeal No. | Oral Arg or Close of Briefing | See Note | Decision Date | See Note | Days to Issue | Note |
|--|------------|-------------------------------|----------|---------------|----------|---------------|---|
| FDO 02 | 05-006 | 1/17/2006 | OA | 1/27/2006 | | 10 | |
| FDO 03 | 05-004 | 1/17/2006 | * | 2/22/2006 | * | 36 | <i>brief rec'd 1/17; ordered 1/13; decided 2/21, mailed 2/22 - by OAH pro tem</i> |
| MDO 04 | 06-004 | 1/30/2006 | OA | 2/23/2006 | | 24 | |
| MDO 05 | 05-009 | 1/30/2006 | OA | 2/24/2006 | | 25 | |
| FDO 06 | 05-008 | 1/30/2006 | * | 3/2/2006 | | 31 | <i>no oral argument, briefing closed date</i> |
| MDO 07 | 06-003 | 2/15/2006 | OA | 3/7/2006 | | 20 | |
| FDO 08 | 05-008 | 3/6/2006 | * | 4/14/2006 | | 39 | <i>brief ordered closed 3/13/06; filed early</i> |
| MDO 09 | 06-007 | 4/10/2006 | OA | 4/28/2006 | | 18 | |
| MDO 10 | 06-006 | 4/4/2006 | * | 5/11/2006 | | 37 | <i>last brief received; original order date 3/31</i> |
| MDO 11 | 06-013 | 5/15/2006 | OA | 6/2/2006 | | 18 | |
| MDO 12 | 06-012 | 5/19/2006 | * | 6/13/2006 | | 25 | <i>order date 5/16; rec'v'd 5/19</i> |
| MDO 13 | 05-005 | 5/16/2006 | * | 6/15/2006 | | 30 | <i>close of briefing date</i> |
| FDO 14 | 06-001 | 5/4/2006 | * | 7/13/2006 | | 70 | <i>close of briefing date</i> |
| FDO 15 | 06-003 | 7/14/2006 | * | 8/3/2006 | | 20 | <i>close of briefing date</i> |
| FDO 16 | 05-009 | 5/31/2006 | OA | 8/4/2006 | | 65 | |
| MDO 17 | 06-016 | 7/28/2006 | OA | 8/28/2006 | | 31 | |
| FDO 18 | 05-003 | 7/24/2006 | OA | 9/7/2006 | | 45 | |
| MDO 19 | 06-018 | 9/5/2006 | OA | 10/4/2006 | | 29 | <i>motion to waive fees</i> |
| FDO 20 | 06-001 | 9/5/2006 | OA | 10/5/2006 | | 30 | <i>motion for reconsideration</i> |
| MDO 21 | 06-009 | 10/6/2006 | OA | 10/19/2006 | | 13 | |
| MDO 22 | 06-028 | 10/11/2006 | OA | 10/19/2006 | | 8 | <i>motion for stay</i> |
| FDO 23 | 06-008 | 9/21/2006 | OA | 12/8/2006 | | 78 | |
| MDO 24 | 06-034 | 12/11/2006 | OA | 1/9/2007 | | 29 | <i>motion for stay</i> |
| MDO 25 | 06-018 | 12/11/2006 | OA | 1/10/2007 | | 30 | <i>Motion to waive fees</i> |
| MDO 26 | 06-037 | 12/28/2006 | OA | 1/11/2007 | | 14 | |
| MDO 27 | 06-033 | 12/11/2006 | OA | 1/11/2007 | | 31 | |
| MDO 28 | 06-036 | 12/20/2006 | OA | 1/17/2007 | | 28 | |
| FDO 29 | 05-007 | 11/7/2006 | OA | 1/30/2007 | | 84 | |
| MDO 30 | 06-011 | 11/17/2006 | OA | 2/2/2007 | | 77 | |
| FDO 31 | 06-038 | 12/20/2006 | OA | 12/28/2007 | * | 8 | <i>order issued 12/28/06 declining jurisdiction, order was published 2/2/07 as final decision after Superior Court took jurisdiction, approving comm'n order.</i> |
| Average for decisions published in 2006 | | | | | | 32 | |
| Average for all matters heard in 2006, including decisions issued in 2007: | | | | | | 33 | |

Shaded rows refer to matters heard in 2006, decisions published in 2007.

FDO: Final Decision and Order

MDO: Memorandum Decision and Order

Attachment 2