

February 01, 2011

<Dr.Name>, M.D.  
<Dr.Address1>  
<Dr.Address2>  
<Dr.City>, <Dr.Zip> <Dr.ZipCode>

Re: IMA KLUTZ v STATE OF ALASKA  
D/A 01/01/2010 AWCB No. 201099999

Dear Dr. \_\_\_\_\_:

Thank you for accepting this case for a Board-ordered Second Independent Medical Evaluation (SIME) scheduled for \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_m. Enclosed is a complete set of medical records and IMA KLUTZ was asked to hand carry to the examination any x-rays or film studies.

It is important the SIME is truly independent, and neither you nor anyone with whom you practice, now or in the past, has treated or examined IMA KLUTZ. It is also important for the parties to know if you have performed any evaluations on behalf of the employer during the previous 12 months. Therefore, before acting on this SIME, please review your records to make sure there is no conflict of interest or any reason why you should not perform the SIME. If you find any association between you, your partners, and this case, or the parties of this case, or believe there is any conflict of interest which would affect your independence, please contact me before preparing for this SIME.

Under Alaska law, when there is a dispute between the employee's attending physician and the employer's medical evaluator, the Alaska Workers' Compensation Board may require an SIME in accordance with AS 23.30.095(k). In this case, a medical dispute exists regarding <disputes> for IMA KLUTZ's <EE's body part or function>.

In forming your opinion and answering the following questions, please use the standard of a "reasonable degree of medical probability." This means your opinion is based on "a more probable than not" standard, meaning it is more than 50 percent probable. Anything less than 50 percent probability is a possibility. If you cannot answer a question to a reasonable degree of medical probability, please answer the question but indicate it is a possibility, not a probability.

There are some legal concepts peculiar to Alaska workers' compensation law, which you should keep in mind in answering the Board's questions. Under Alaska law, the employer takes the employee as it finds him or her. Thus, a pre-existing condition may be fully compensated if the employment aggravated, accelerated, or combined with the pre-existing condition to result in disability, death or the need for medical treatment. To be considered an aggravation, acceleration, or to combine with the

pre-existing condition, the employment must have been the substantial cause in producing the disability, death or need for medical treatment. This requires an evaluation of the relative contribution of different causes of the employee's disability, death or need for medical treatment.

To be "the substantial cause" means employment is, in relation to all causes, the cause of the disability, death or need for medical treatment, and is the cause to which a reasonable person could assign responsibility for the employee's disability, death or need for claimed medical treatment. In other words, employment, more than any other cause, is the cause of the employee's disability, death, or need for medical treatment. "Disability" means incapacity because of injury to earn the wages the employee was receiving at the time of injury in the same or any employment. "Disability" is a function of earning capacity and is not synonymous with "condition."

Please review the enclosed medical reports as part of your examination. Then, please answer the questions below, including the factual bases for your opinions and your medical rationale for those opinions. If you believe another type of physician is necessary to respond to the questions adequately, please indicate the type of specialist who is more qualified to answer. If you believe additional x-rays or film studies would assist you in your examination, you may have the x-rays or film studies done if the employee agrees to submit to the procedures. If you want to perform any other studies, please contact the Board first.

1. What is the medical cause for each complaint or symptom?
2. Please identify which complaints or symptoms are related to the 01/01/2010 employment injury, and the basis for your opinion?
3. If the employee has a condition affecting the same body part or function, which pre-existed his or her 01/01/2010 employment injury, please identify those pre-existing conditions.
4. If the employee has post-employment conditions affecting the same body part or function, please identify those post-employment conditions.
5. If the employee has a condition pre-existing the 01/01/2010 employment injury, was the 01/01/2010 employment injury the substantial cause, which aggravated, accelerated, or combined with the pre-existing condition to cause the employee's disability, as defined above, death, or need for medical treatment?
6. If the employee has a condition pre-existing the employment injury, did the aggravation, acceleration or combination with the pre-existing condition produce a temporary or permanent change in the pre-existing condition?
7. If the 01/01/2010 employment injury is not the substantial cause, what is the substantial cause, which aggravated, accelerated, or combined with the pre-existing condition to cause the employee's disability, as defined above, death, or need for medical treatment?
8. Please evaluate the relative contribution of all the different causes of the employee's post-injury and current complaints or symptoms.

9. Please identify which of all the different causes of the employee's post-injury and current complaints or symptoms is the substantial cause of the employee's disability, death or medical treatment.
10. What specific additional treatment, if any, is indicated or recommended?
11. Is the 01/01/2010 employment injury the substantial cause of the need for the recommended treatment?
12. IMA KLUTZ has received a course of care requiring continuing and multiple treatments of a similar nature. In your opinion, was or is this type of treatment reasonable and necessary for the injury? That is, will it
  - a. help the employee in recovering from the injury;
  - b. on an as-needed basis, promote the employee's recovery from individual attacks caused by a chronic condition;
  - c. limit or reduce the employee's permanent impairment; or
  - d. enable the employee to return to work or continue working?
13. Based upon the following Alaska Workers' Compensation Act definition, is IMA KLUTZ medically stable? On what date was medical stability reached, or on what date do you predict medical stability? Medical stability means:

[T]he date after which further objectively measurable improvement from the effects of the compensable injury is not reasonably expected to result from additional medical care or treatment notwithstanding the possible need for additional medical care or the possibility of improvement or deterioration resulting from the passage of time; medical stability shall be presumed in the absence of objectively measurable improvement for a period of 45 days; this presumption may be rebutted by clear and convincing evidence.
14. Based upon the following Alaska Workers' Compensation Act definition, is any treatment employee has received since medical stability, or is likely to receive in the future, palliative care?

[M]edical care or treatment rendered to reduce or moderate temporarily the intensity of pain caused by an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal, or permanently alleviate or eliminate a medical condition.
15. If any treatment employee has received since medical stability, or is likely to receive in the future, is palliative care, is it reasonable and necessary to:
  - a. enable the employee to continue in the employee's employment at the time of treatment;
  - b. enable the employee to continue to participate in an approved reemployment plan; or
  - c. relieve chronic debilitating pain?

16. Is IMA KLUTZ able to work as a <EEJob> without any limitations or restrictions at this time?
17. If IMA KLUTZ is not able to work as a <EEJob> without any limitations or restrictions at this time, is the 01/01/2010 employment injury the substantial cause of the employee's inability to work as a <EEJob>?
18. Please review and consider the enclosed job description(s), then list any and all limitations or restrictions, and determine the substantial cause of the limitations or restrictions.
19. If IMA KLUTZ is medically stable, please perform a permanent partial impairment rating using the American Medical Association *Guides to the Evaluation of Permanent Impairment*, (5<sup>th</sup> or 6<sup>th</sup> Ed.) (*Guides*), except under Alaska law impairment may not be rounded to the nearest five percent.

In accordance with Board regulations, until the parties receive your SIME report, communications by and with you are limited as follows: (1) a party or a party's representative and the examiner may communicate as needed to schedule or change the examination scheduling; (2) the employee and the examiner may communicate as necessary to complete the examination; (3) the examiner's communications with a physician who has examined, treated, or evaluated the employee, if any, must be in writing, and a copy of the written communication must be sent to the Board and the parties. You must request the physician's report in writing and request the physician not communicate in any other manner with you about the employee's condition, treatment or claim.

Please send the bill for your examination to:

HARBOR ADJUSTMENT SERVICE INC  
1900 W BENSON BLVD STE 101  
ANCHORAGE, AK 99517

Alaska statutes require your SIME report be furnished to the Board and the parties within 14 days after the examination is concluded. Please forward your report to me and mail a copy of your report directly to each of the parties listed at the bottom of this letter.

If you have any questions, please call me. Thank you very much for your assistance in this matter.

Sincerely,

ALASKA DIVISION OF WORKERS' COMPENSATION

---

Workers' Compensation Officer

Enclosures:

cc:

IMA KLUTZ  
PO BOX 115512  
JUNEAU, AK 99811

HARBOR ADJUSTMENT SERVICE INC  
1900 W BENSON BLVD STE 101  
ANCHORAGE, AK 99517