Alaska Workers' Compensation Appeals Commission

Marcos J. Pichardo, Appellant, vs. Assets, Inc. and Berkshire Hathaway Homestate Insurance Company, Appellees.	Final Decision Decision No. 250 June 12, 2018 AWCAC Appeal No. 17-016 AWCB Decision No. 17-0108 AWCB Case No. 201214332

Final decision on appeal from Alaska Workers' Compensation Board Decision and Order No. 17-0108, issued at Anchorage, Alaska, on September 11, 2017, by southcentral panel members Henry Tashjian, Chair, Pamela Cline, Member for Labor, and Linda Murphy, Member for Industry.

Appearances: Marcos J. Pichardo, self-represented appellant; David D. Floerchinger, Russell Wagg Meshke & Budzinski, PC, for appellees, Assets, Inc. and Berkshire Hathaway Homestate Insurance Company.

Commission proceedings: Petition for Review filed September 26, 2017; petition converted to appeal November 2, 2017; briefing completed May 2, 2018; neither party requested oral argument.

Commissioners: Michael J. Notar, Philip E. Ulmer, Deirdre D. Ford, Chair.

By: Deirdre D. Ford, Chair.

1. Introduction.

Marcos J. Pichardo, appellant, in 2015 signed a Compromise and Release (C&R) with Assets, Inc. and Berkshire Hathaway Homestate Insurance Company (Assets), appellees, settling some of his workers' compensation benefits. At the time of the settlement he was represented by counsel. In January 2017, he petitioned to set the C&R aside. The Alaska Workers' Compensation Board (Board) issued its decision and order on September 11, 2017, which it entitled Interlocutory Decision and Order, Alaska Workers' Comp. Bd. Dec. No. 17-0108. Mr. Pichardo was represented by counsel at the

hearing. The Board denied the petition and Mr. Pichardo timely petitioned the Alaska Workers' Compensation Appeals Commission (Commission) to review the Board's decision. The Commission converted the petition to an appeal since the only issue decided by the Board was the petition to set aside the C&R. While both parties submitted briefs, neither requested oral argument. Therefore, the Commission reached its decision based on the briefs.

2. Factual background and proceedings.[1]

Mr. Pichardo reported he was injured at least three times while working for Assets: on March 15, 2012, April 18, 2013, and April 30, 2014.[2] On October 23, 2013, attorney Robert Rehbock[3] filed an entry of appearance as Mr. Pichardo's attorney of record. Attorney Rehbock continued to represent Mr. Pichardo until his withdrawal was filed on September 29, 2016.[4] However, by early 2015, Mr. Pichardo's case was handled primarily by attorney Andrew Wilson, law partner of attorney Rehbock.[5]

In early 2015, the parties engaged in settlement discussions through their attorneys and Mr. Pichardo communicated only with attorney Wilson. Once he was represented by counsel, he did not speak with anyone at Assets or with any representative of Assets. Mr. Pichardo spoke to attorney Wilson through his daughter, Rosa Pichardo, who is fluent in both English and Spanish.[6] Ms. Pichardo was present

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[1] We make no factual findings. We state the facts as found by the Board, adding context by citation to the record with respect to matters that do not appear to be in dispute.

[2] *Pichardo v. Assets Inc.,* Alaska Workers' Comp. Bd. Dec. No. 17-0108 at 2, No. 1 (Sept. 11, 2017) (*Pichardo*).

[3] At the time of the entry of appearance, the firm was called Rehbock and Rehbock, but it is now called Rehbock and Wilson.

[4] *Pichardo* at 2, No. 2.

[5] *Id.*, No. 3.

[6] Mr. Pichardo speaks almost no English and neither reads nor writes in English. Hr'g Tr. at 22:19 – 23:1, Aug. 22, 2017.

when Mr. Pichardo signed the C&R at attorney Wilson's office. Ms. Pichardo testified she is not trained nor certified in interpretation.[7]

On July 31, 2015, the Board approved the C&R filed by the parties and the agreement became effective upon issuance of the order approving the agreement. Under the C&R, Assets agreed to pay Mr. Pichardo a total of $66,000.00 in exchange for waiver of all benefits except for medical benefits related to the 2013 and 2014 injuries. In the C&R, Mr. Pichardo specifically waived all medical benefits for the 2012 injury. Assets agreed to pay Mr. Pichardo's attorney the sum of $14,000.00 for fees. Mr. Pichardo initialed each page of the C&R at the bottom and signed the C&R in the notary block. Attorney Rehbock, attorney Joseph Cooper for Assets, and Linda Rudolph, adjuster, also signed the agreement, although not on the same day. The Board approved the agreement on July 31, 2015.[8]

Mr. Pichardo testified at hearing that he did not intend to waive medical benefits related to his 2012 injury, and he would not have signed the agreement if he had known a waiver of medical benefits for the 2012 injury was one of the terms. Mr. Pichardo stated he was not provided a copy of the C&R to review beforehand, in either English or Spanish. He agreed that, although the pages of the agreement were not explained to him individually, he initialed each page and signed the C&R at the direction of attorney Wilson. Mr. Pichardo stated the notary block was not filled out when he signed the C&R. He also testified a notary was not present nor was he sworn in when he signed the C&R as stated in the attestation block. Mr. Pichardo said attorney Wilson told him the agreement settled only time-loss benefits, and he wasn't aware that medical benefits for the 2012 injury had been waived until the prehearing conference in late 2016. Following approval of the C&R, Mr. Pichardo acknowledged he received the check for the C&R settlement in the amount of $66,000.00.[9]

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7 *Pichardo* at 2, No. 4.

8 *Id.* at 2-3, No.5.

9 *Id.* at 3, No. 6.

Neither Mr. Pichardo nor Assets was familiar with the notary who notarized the C&R. The notary was not associated with Assets nor Assets' representative.[10] The notary did not appear as a witness at the hearing.[11]

3. Standard of review.

The Board's findings of fact are to be upheld if the findings are supported by substantial evidence in the record as a whole.[12] "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[13] Moreover, the question "of whether the quantum of evidence is substantial enough to support a conclusion" in the minds of reasonable people "is a question of law."[14] The Commission, on questions of law and procedure, does not defer to the Board's conclusions, but rather exercises its independent judgment.[15]

Settlement agreements are governed by AS 23.30.012, which requires the agreement be "in a form prescribed by the director" and filed with the division.[16] The Board is obligated to review a settlement where the claimant is "waiving future medical benefits."[17] Once a C&R has been approved by the Board, the agreement has the same legal effect as a Board order. Moreover, such settlements are not subject to modification under AS 23.30.130.[18] A C&R may be set aside due to intentional misrepresentation by an employer if the claimant is able to show by clear and convincing evidence that the

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[10] *Pichardo* at 3, No. 7.

[11] Record.

[12] AS 23.30.128(b).

[13] *See, e.g., Norcon, Inc. v. Alaska Workers' Comp. Bd.,* 880 P.2d 1051, 1054 (Alaska 1994).

[14] *McGahuey v. Whitestone Logging, Inc.,* Alaska Workers' Comp. App. Comm'n Dec. No. 054 at 6 (Aug. 28, 2007) citing *Land & Marine Rental Co. v. Rawls,* 686 P.2d 1187,1188-89 (Alaska 1984).

[15] AS 23.30.128(b).

[16] AS 23.30.012(a).

[17] AS 23.30.012(b).

[18] *Olsen Logging Co. v. Lawson,* 856 P.2d 1155, 1158-1159 (Alaska 1993).

misrepresentation was (1) fraudulent or material; (2) induced the party to enter into the contract; and (3) the party was justified in relying on the misrepresentation.[19] Moreover, a C&R may not be set aside because the claimant asserts he was mistaken as to a unilateral or mutual mistake of fact.[20] Furthermore, if the claimant does not know the extent of his/her disabilities at the time of the settlement or misunderstands the extent of the benefits being settled, the claim is a mistake of fact and a mistake of fact is not sufficient grounds for setting aside the C&R.[21]

4. Discussion.

On January 30, 2017, Mr. Pichardo filed a petition with the Board to set aside the C&R he signed on July 10, 2015, which the Board approved on July 31, 2015.[22] He contends the C&R should be set aside for several reasons. He asserts that he was not informed of the contents of the settlement by his attorney, and especially was not informed that he was closing the medical benefits related to his 2012 injury with Assets. He further contends he never authorized his attorney to close medical benefits for the 2012 injury, asserting he specifically told his attorney he wanted all medical benefits to remain open. He further contends he did not receive a copy of the C&R prior to signing it on July 10, 2015, and that at no time was he presented with a copy of the C&R in Spanish, which is the only language he speaks, understands, and has the ability to read.[23] At the time of the settlement he relied on his daughter, Rosa Pichardo, to translate for him. She also testified she did not receive a copy of the C&R prior to her father signing it in his attorney's office on July 10, 2015, and she did not read it nor translate it at the time for her father when he signed it, relying on his attorney to have explained it to her

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19 *Seybert v. Cominco Alaska Exploration,* 182 P.3d 1079, 1094 (Alaska 2008); *Witt v. Watkins,* 579 P.2d 1065, 1068-70 (Alaska 1978).

20 *Olsen Logging Co.,* 856 P.2d at 1158-1159.

21 *Williams v. Abood,* 53 P.3d 134, 144 (Alaska 2002).

22 Exc. 82-90.

23 Hr'g Tr. at 35:20 – 37:7.

father.[24] Mr. Pichardo further contends that a notary was not present when he signed the C&R and he was not put under oath prior to signing in the notary block. He asserts this failure constitutes a fraud on the Board. Mr. Wilson, the attorney representing Mr. Pichardo at the time of the settlement, did not testify at the hearing.[25] Likewise the notary did not testify.[26]

a. Is the failure to sign in front of a notary a fraud on the Board?

Under the Alaska Workers' Compensation Act (Act), the requirements for settlements are provided in AS 23.30.012 and 8 AAC 45.160. AS 23.30.012 provides in pertinent part:

> (a) At any time after death, or after 30 days subsequent to the date of the injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter, but a memorandum of the agreement in a form prescribed by the director shall be filed with the division. Otherwise, the agreement is void for any purpose. Except as provided in (b) of this section, an agreement filed with the division discharges the liability of the employer for the compensation, notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is enforceable as a compensation order.
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> (b) The agreement shall be reviewed by a panel of the board if the claimant or beneficiary is not represented by an attorney licensed to practice in this state, the beneficiary is a minor or incompetent, or the claimant is waiving future medical benefits. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the compensation notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter, and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. A lump-sum settlement may be approved when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

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[24] Hr'g Tr. at 35:20 – 37:7.

[25] Record as a whole.

[26] Record as a whole.

8 AAC 45.160 provides in pertinent part:

> (a) The board will review a settlement agreement that provides for the payment of compensation due or to become due and that undertakes to release the employer from any or all future liability. A settlement agreement will be approved by the board only if a preponderance of evidence demonstrates that approval would be for the best interest of the employee or the employee's beneficiaries. The board will, in its discretion, require the employee to attend, and the employer to pay for, an examination of the employee by the board's independent medical examiner. If the board requires an independent medical examination, the board will not act on the agreed settlement until the independent medical examiner's report is received by the board.
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> (b) All settlement agreements must be submitted in writing to the board, must be signed by all parties to the action and their attorneys or representatives, if any, and must be accompanied by form 07-6117.
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> (c) Every agreed settlement must conform strictly to the requirements of AS 23.30.012 and, in addition, must (1) be accompanied by all medical reports in the parties' possession, except that, if a medical summary has been filed, only those medical reports not listed on the summary must accompany the agreed-upon settlement; (2) include a written statement showing the employee's age and occupation on the date of injury, whether and when the employee has returned to work, and the nature of employment; (3) report full information concerning the employee's wages or earning capacity; (4) state in detail the parties' respective claims; (5) state the attorney's fee arrangement between the employee or his beneficiaries and the attorney, including the total amount of fees to be paid; (6) itemize in detail all compensation previously paid on the claim with specific dates, types, amounts, rates, and periods covered by all past payments; (7) include a written statement from all parties and their representative that (A) the agreed settlement contains the entire agreement among the parties; (B) The parties have not made an undisclosed agreement that modifies the agreed settlement; (C) the agreed settlement is not contingent on any undisclosed agreement; and (D) an undisclosed agreement is not contingent on the agreed settlement; and (8) contain other information the board may from time to time require.

A close reading of both the statute and regulation above demonstrates that nowhere is there a requirement that a signature of the employee on the settlement agreement be notarized. So the Board, in reviewing the C&R at hearing, could ignore the notarization because Mr. Pichardo agreed he signed the C&R and agreed the signature

reviewed by the Board was his signature. Mr. Pichardo agreed the signature on the C&R was his, which is the primary reason for having a signature notarized.

The Board declined to find that if the notarization was indeed faulty that alone was not sufficient to establish "a fraud on the court" and was not a basis for setting aside the C&R. The Alaska Supreme Court (Court) has stated that to constitute fraud on the court the conduct must be egregious and corrupting of the judicial system.

> Such fraud includes behavior which defiles the court itself and which results in the inability of the judicial machinery to perform in the usual manner its impartial task of adjudicating cases. The adjudicative integrity of a court may be defiled by the behavior of parties or attorneys which results in depriving adverse parties of substantive rights.[27]

The allegation here of fraud on the court was that Mr. Pichardo's own attorney did not have the C&R properly notarized. This was not an act over which Assets had control. Mr. Pichardo contended the notarization was faulty, but this was not an act of the adverse party, here Assets, and it did not deprive him of any substantive rights. Assets lived up to its obligations under the agreement and Mr. Pichardo received payment according to the C&R.

Moreover, the Board found that notarization of a signature on a C&R is not required by statute or regulation. Therefore, even if the notarization were faulty, it would not invalidate the entire agreement, especially because Mr. Pichardo agreed he signed the C&R and at hearing identified the signature as his. The Board also found that even if the notarization were faulty it did not impede the Board's adjudicative function because Mr. Pichardo agreed the signature was his.

Furthermore, Mr. Pichardo did not have anyone from Attorney Rehbock's office testify about the notary or the circumstances surrounding the notary's signature on the C&R. Neither the Board nor Assets would have had any reason to doubt the authenticity of the notary block, and the Board did not rely on the notarization of Mr. Pichardo's signature when considering the C&R. All signs of a valid agreement were present. Mr. Pichardo initialed each page of the agreement. The C&R was signed at the office of

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[27] *Mallonee v. Grow*, 502 P.2d 432, 438 (Alaska 1972).

his attorney. His attorney negotiated the settlement and signed the C&R. It was the duty of his attorney to explain the C&R to him, and it was not the duty of Assets to do so. Assets had no direct contact with either Mr. Pichardo or his daughter once he retained the office of Mr. Rehbock to represent him in his workers' compensation claims.

Substantial evidence in the record as a whole supports the Board's finding that a faulty notarization, standing alone, is an insufficient basis for setting aside a C&R. The Board correctly found that if the notarization was faulty, it did not affect the validity of the C&R and did not rise to the level of a "fraud on the court." The Board's finding is supported by substantial evidence in the record and by the law regarding valid agreements settling workers' compensation claims.

b. Was the Board correct in finding that no grounds existed for setting aside the C&R?

A workers' compensation settlement is considered a contract which is subject to interpretation as any other contract.[28] A C&R, thus, may not be set aside because a party misunderstood or made a mistake about a term of the settlement.[29] Likewise, a C&R may not be set aside because a claimant did not understand the full nature of his disability.[30] A C&R may be set aside for fraud or material misrepresentation under certain conditions. To set aside a C&R for fraud or material misrepresentation, the claimant must be able to show by clear and convincing evidence that (1) there was a misrepresentation; (2) the misrepresentation was fraudulent or material; and (3) the claimant was induced to rely on the misrepresentation.[31]

Further, the Court has stated that there "is a strong public policy in favor of settlement of disputes."[32] Settlements "facilitate communication and compromise,

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[28] *Seybert*, 182 P. 2d 1079, 1093.

[29] *Id.,* citing *Olsen Logging Co.,* 856 P.2d 1155, 1158-59.

[30] *Id.*

[31] *Seybert,* 182 P.3d 1079, 1093.

[32] *Colton v. Colton,* 244 P.3d 1121, 1127 (Alaska 2010), citing *Mullins v. Oates,* 179 P.3d 930, 937 (Alaska 2008).

encourage voluntary resolution of disputes and simplify litigation without taking up valuable court resources."[33] Therefore, settlements are difficult to set aside.

c. Was Mr. Pichardo's misunderstanding of the terms of the C&R sufficient to set it aside?

At the time of the settlement, Mr. Pichardo was represented by attorney Wilson. While Mr. Pichardo contends Mr. Wilson did not follow his direction to leave all medical benefits open and did not explain to him before signing the C&R (or apparently afterwards) that he was waiving medical benefits related to his 2012 injury, he, nonetheless, signed the C&R indicating his approval and accepted the settlement check. Closing medical benefits related to the 2012 injury was a mistake of fact by Mr. Pichardo. The Court, in *Olsen Logging Co.,* expressly stated that under AS 23.30.012 an approved settlement may not be set aside due to a mistake of fact. "This is, therefore, an expression of legislative intent that approved agreements may not be modified because of mistakes of fact."[34]

When there is a material misrepresentation in the settlement of a workers' compensation claim, the settlement may be set aside if the material misrepresentation is made by the other party, not by a party's misunderstanding or reliance on his own attorney. In *Seybert*, the Court held a C&R may be set aside due to intentional misrepresentation by an employer if the claimant is able to show by clear and convincing evidence that the misrepresentation was (1) fraudulent or material; (2) induced the party to enter into the contract; and (3) the party was justified in relying on the misrepresentation.[35]

Here, Mr. Pichardo alleged he did not intend to close any future medical benefits. He further alleged he told his attorney on more than one occasion he did not want to close his right to future medical benefits. If such statements were made to his attorney and the attorney did not act on these wishes, then it would appear closing further medical

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[33] *Id.*

[34] *Olsen Logging Co.,* 856 P.2d. 1155, 1159.

[35] *Seybert,* 182 P.3d 1079, 1094; *Witt,* 579 P.2d 1065, 1068-70.

benefits related to the 2012 injury would be a material misrepresentation. Such a misrepresentation might have induced him to sign the settlement agreement and he might have been justified in relying on the misrepresentation by his attorney.[36] However, important to his claim is the fact that the alleged misrepresentation to Mr. Pichardo was not the result of any action by Assets, but the result of action by his own attorney. Since it was not an adverse party that may have made a material misrepresentation, there are no grounds for setting the C&R aside based on a material misrepresentation.

The Court, in *Seybert*, held that an insurance company and its agents do not have a fiduciary relationship with an injured worker and did not owe him a fiduciary duty.[37] Neither Assets nor its agents, including its attorney, owed any duty to Mr. Pichardo to make sure he understood the terms of the C&R. That duty was owed to him by his attorney.

Moreover, as the Board found, the attorney representing Mr. Pichardo at the time of settlement did not testify. The Board also noted that no civil or professional entity had determined that a misrepresentation occurred.[38] The Board should not rely on insufficient evidence about a possible material misrepresentation to set aside a C&R. To do so would be contrary to the legislative intent that the Act be interpreted "so as to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers . . . ."[39] Such an action undermines the "desired goals of settlement: stability, predictability, and final resolution without the cost of litigation."[40]

Furthermore, if Mr. Pichardo has a complaint about how his attorney handled this dispute, neither the Board nor the Commission are the proper forum for resolving that

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[36] The misrepresentation asserted by Mr. Pichardo was, according to him, made by his attorney, but his attorney did not testify at the hearing.

[37] *Seybert,* 182 P.3d 1079, 1090.

[38] *Pichardo* at 7.

[39] AS 23.30.001(1).

[40] *Pichardo* at 7.

claim. If Mr. Pichardo was injured by relying on advice from his attorney, he may seek redress in the proper forum.

Substantial evidence in the record as a whole supports the Board's finding that there was no misrepresentation, material or otherwise, by Assets and, thus, insufficient grounds exist to permit the C&R to be set aside.

d. Was Mr. Pichardo induced to sign the C&R by coercion or duress?

To show that a C&R was induced by coercion or duress, the person alleging duress "must show that (1) he involuntarily accepted the terms offered by another party; (2) the circumstances permitted no alternative course of action; and (3) such circumstances were the result of the coercive acts of the other party."[41] The claim of duress must be proved by clear and convincing evidence.[42]

Mr. Pichardo admitted he freely initialed each page of the C&R and signed it in the notary block, although not before a notary.[43] He further admitted he did not speak or communicate with anyone at Assets or with anyone at the office of Assets' counsel after his attorney entered his appearance.[44] Mr. Pichardo agreed he and his daughter communicated only with attorney Rehbock or attorney Wilson.[45]

Likewise, there is no indication Mr. Pichardo signed the C&R involuntarily. He may have misunderstood the terms of the agreement, but he signed it voluntarily. And importantly, he had alternatives to signing the C&R. He had filed a workers' compensation claim and he could have requested a hearing on his claim and allowed the Board to decide what benefits he should receive. In fact, Mr. Pichardo participated in two Second Independent Medical Evaluations (SIME). The first SIME was with Paul M. Puziss, M.D., on April 30, 2014, with a Spanish language interpreter. Dr. Puziss

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41 *Rosales v. Icicle Seafoods, Inc.,* 316 P.3d 580, 588 (Alaska 2013); *Helstrom v. North Slope Borough,* 797 P.2d 1192, 1197 (Alaska 1990).

42 *Id.*

43 Hr'g Tr. at 29:16 – 30:16.

44 Hr'g Tr. at 45:21-24.

45 Hr'g Tr. at 45:25 – 46:4.

specifically stated Mr. Pichardo was medically stable from the 2012 injury and needed no additional medical treatment.[46] The second SIME was performed on March 24, 2016, with Marjorie Oda, M.D., and addressed the right shoulder. She found no right upper extremity symptoms at the time of her examination and gave him a 0% whole person impairment. She further stated "Mr. Pichardo has never been and is no longer disabled from the work-related injury of 3/15/12" and advised no further medical treatment was needed.[47] Based on these two SIME reports, Mr. Pichardo had good reason to consider settlement of his claim, including the receipt of monies for medical treatment related to the 2012 injury.

Importantly, none of the actions Mr. Pichardo complained about are the result of any actions undertaken by Assets. Mr. Pichardo's main complaint is that his signature was not properly notarized. However, the C&R was signed at the offices of Rehbock & Wilson and that office apparently arranged for the notary.[48] Mr. Wilson was responsible for explaining the terms of the settlement to Mr. Pichardo and his daughter.

While Assets' counsel drafted the C&R, he did so after a series of exchanges with Mr. Wilson about the terms of the C&R, and the C&R was sent to Mr. Wilson to review and provide to his client.[49] Although Mr. Pichardo complains Mr. Wilson did not explain the terms to him and expressly went against his wishes in reaching the settlement, these are actions of his attorney, not actions of Assets.

There is no evidence any actions undertaken by Assets compelled Mr. Pichardo to sign the C&R. There was no coercion or duress and this finding by the Board is supported by substantial evidence in the record as a whole.

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[46] R. 1127-1142.

[47] R. 702, 704.

[48] No one from the offices of Rehbock & Wilson testified at the hearing nor were any affidavits about the circumstances of the signing of the C&R presented to the Board (*see* the record as a whole).

[49] Exc. 79-81.

e. *Was Mr. Pichardo's inability to read or speak English a basis for setting aside the C&R?*

As stated above, Assets did not have a fiduciary responsibility to Mr. Pichardo, especially when he was represented by an attorney. It was the responsibility of his attorney to make sure Mr. Pichardo understood the terms of the settlement and to have provided him with a copy of the C&R prior to his signing it so he could read it before signing. If Mr. Pichardo has concerns about his attorney's lack of explaining the terms of the C&R to him, there are other avenues for him to explore. Neither the Board nor the Commission is the proper venue to address those concerns.

5. Conclusion.

The Board's decision denying the petition to set aside the 2015 C&R is supported by substantial evidence in the record as a whole. Therefore, the Board's decision is AFFIRMED.

Date: ___ *12 June 2018* _____ ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

Signed
Michael J. Notar, Appeals Commissioner

Signed
Philip E. Ulmer, Appeals Commissioner

Signed
Deirdre D. Ford, Chair

APPEAL PROCEDURES

This is a final decision. AS 23.30.128(e). It may be appealed to the Alaska Supreme Court. AS 23.30.129(a). If a party seeks review of this decision by the Alaska Supreme Court, a notice of appeal to the Alaska Supreme Court must be filed no later than 30 days after the date shown in the Commission's notice of distribution (the box below).

If you wish to appeal to the Alaska Supreme Court, you should contact the Alaska Appellate Courts *immediately*:

Clerk of the Appellate Courts
303 K Street
Anchorage, AK 99501-2084
Telephone: 907-264-0612

RECONSIDERATION

A party may ask the Commission to reconsider this decision by filing a motion for reconsideration in accordance with AS 23.30.128(f) and 8 AAC 57.230. The motion for reconsideration must be filed with the Commission no later than 30 days after the date shown in the Commission's notice of distribution (the box below). If a request for reconsideration of this final decision is filed on time with the Commission, any proceedings to appeal must be instituted no later than 30 days after the reconsideration decision is distributed to the parties, or, no later than 60 days after the date this final decision was distributed in the absence of any action on the reconsideration request, whichever date is earlier. AS 23.30.128(f).

I certify that, with the exception of changes made in formatting for publication, this is a full and correct copy of Final Decision No. 250 issued in the matter of *Marcos J. Pichardo vs. Assets, Inc. and Berkshire Hathaway Homestate Insurance Company*, AWCAC Appeal No. 17-016, and distributed by the office of the Alaska Workers' Compensation Appeals Commission in Anchorage, Alaska, on June 12, 2018.

Date: *June 13, 2018*

Signed

K. Morrison, Appeals Commission Clerk