

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1995 MTWCC 17A-1

WCC No. 9211-6631

THOMAS R. BROEKER

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

Respondent/Insurer for

GREAT FALLS COCA-COLA BOTTLING COMPANY

Employer.

IRVIN ELL

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

Respondent/Insurer for

MONTANA DEPARTMENT OF HIGHWAYS

Employer.

ORDER REVISING DECISION AND JUDGMENT

On March 6, 1995, the Court Issued its Decision and Judgment. It Has Come to the Court's Attention That in Several Places the Two Petitioners' Names Were Interchanged. In Footnote 3 it Referred to "Broeker's Initial Benefit", Whereas it Intended to Refer to "Ell's Initial Benefit." Similarly, in its Judgment at Paragraphs 2, 3 , 4 and 5, the Court Ordered Recalculation of Mr. Ell's Benefit, Whereas it Intended to Order the Recalculation of Mr. Broeker's Benefit. These Are Scrivener's Errors and May Be Corrected Without Formal Motion.

Therefore, it Is Hereby Ordered That the Reference in Footnote 3 to "Broeker's Initial Benefit" Be Corrected to Read "Ell's Initial Benefit" and That the References in the Judgment

at Paragraphs 2, 3, 4 and 5 to the Recalculation of Ell's Benefit Be Corrected to Refer to the Recalculation of Broeker's Benefits. The Revised Paragraphs Should Read:

2. The Offset must Be Based on Each Petitioner's Initial Primary Insurance Amount, Which in Broeker's Case Is \$651.50 and in Ell's Case the Amount Is \$662.30. However, with Regard to Broeker, All Cost-of-living Increases Which Are Included Within the \$651.50 must Be Subtracted from the Primary Insurance Amount. The Offset must Then Be Calculated on the Difference.
3. The State Fund Shall Refund to Broeker the Difference Between the Offset it Has Been Taking and the Offset Which Is Computed Pursuant to Paragraph 2 of this Judgment.
4. With the Exception of the Amount Due Broeker under Paragraph 3 of this Judgment and Petitioners' Possible Entitlement to Attorney Fees and a Penalty, the Petitioners Shall Recover Nothing from the State Fund on Account of the Claims Made in this Case.
5. If Broeker and the State Fund Are Unable to Agree to the Amounts to Be Determined Pursuant to Paragraphs 2 and 3 of this Judgment, They May Apply to the Court for a Determination of Those Amounts.

The Decision and Judgment *as Revised* Shall Be Made a Part of the Court File and Shall Constitute the Decision of the Court.

Dated in Helena, Montana, this 24th Day of March, 1995.

(Seal)

/s/ Mike McCarter

Judge

c: Mr. Lawrence A. Anderson

Mr. Richard V. Bottomly

Mr. William O. Bronson