

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 66

WCC No. 9804-7951

ROBERT DERLATKA

Petitioner

vs.

PACIFIC EMPLOYERS INSURANCE COMPANY

Respondent/Insurer

MISSOULA WHITE PINE SASH

Employer.

ORDER ON COSTS

Summary: Successful claimant filed Bill of Costs. Insurer objected to amounts billed for photocopying, faxes, telephone charges, and postage.

Held: ARM 24.5.342 provides that documented photocopy, long-distance telephone, and postage expenses are generally found reasonable. Although respondent wanted further specification regarding telephone and postage charges (for instance, the identity of persons called) the Court approved the costs based on counsel's signature on the bill of costs representing the specific items were related to the case. Respondent's objection to the amount charged for photocopying is overruled where the Court finds the amount reasonable in light of charges made by the Court itself for copying and by the State Compensation Insurance Fund. Fax charges were disallowed based upon unanimous indication from counsel attending a rules committee meeting, including counsel in this case, that such charges are not ordinarily passed on to clients (see ARM 24.5.342(5)(c).)

Topics:

Constitutions, Statutes, Regulations and Rules: Workers' Compensation Court

Rules: ARM 24.5.342. ARM 24.5.342 provides that documented photocopy, long-distance telephone, and postage expenses are generally found reasonable.

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Costs: WCC Costs. ARM 24.5.342 provides that documented photocopy, long-distance telephone, and postage expenses are generally found reasonable. Although respondent wanted further specification regarding telephone and postage charges (for instance, the identity of persons called) the Court approved the costs based on counsel's signature on the bill of costs representing the specific items were related to the case. Respondent's objection to the amount charged for photocopying is overruled where the Court finds the amount reasonable in light of charges made by the Court itself for copying and by the State Compensation Insurance Fund. Fax charges were disallowed based upon unanimous indication from counsel attending a rules committee meeting, including counsel in this case, that such charges are not ordinarily passed on to clients (see ARM 24.5.342(5)(c).)

¶1 The petitioner/claimant prevailed in this case and seeks an award of costs in the amount of \$687.47. Respondent has objected to the amounts billed by claimant for photocopying, faxes, telephone charges and postage.

¶2 The Workers' Compensation Court rule regarding costs provides in relevant part:

24.5.342 TAXATION OF COSTS

(3) The court will allow reasonable costs. The reasonableness of a given item of cost claimed is judged in light of the facts and circumstances of the case, and the issues upon which the claimant prevailed.

(4) The following are examples of costs that are generally found to be reasonable.

(a) deposition costs (reporter's fee and transcription cost), if the deposition is filed with the court;

(b) witness fees and mileage, as allowed by statute, for non-party fact witnesses;

(c) expert witness fees, including reasonable preparation time, for testimony either at deposition or at trial, but not at both;

(d) travel and lodging expenses of counsel for attending depositions;

(e) fees and expenses necessary for perpetuation or presentation of evidence offered at trial, such as recording, videotaping or photographing exhibits;

(f) documented photocopy expenses;

(g) documented long-distance telephone expenses; and

(h) documented postage expenses

(5) The following are examples of costs that are generally found not to be reasonable:

(a) trial transcripts ordered by the parties prior to any appeal;

(b) secretarial time; and

(c) items of ordinary office overhead not typically billed to clients.

(6) Items of cost not specifically listed in this rule may be awarded by the court, in accordance with the principles in (3).

¶13 Petitioner provided documentation regarding the telephone charges and postage.

Respondent continues to object asking for the identity of persons to whom a call was made or to whom the mail was sent. I find that the signature of the attorney on the bill of costs is sufficient information to document that all telephone calls and postage relates to the matters in this case.

¶14 Respondent next objects to the charges for photocopying of documents asserting that the reasonable charge is \$.07 per page. The Court charges \$.50 for the first five pages of a document and \$.25 for every following page. A check with the State Compensation Insurance Fund revealed that their charge is \$.35 per page for photocopying. I find that the claimant's requested charge is reasonable and sufficiently documented in the initial bill of costs.

¶15 The final objection by the respondent are the charges claimed for faxing documents. Because this cost is not included in ARM 24.5.342 the Court requested information from the respondent regarding the charges it makes to its clients. Additionally, at the Rules Committee meeting which was held on September 3, 1998, this question was discussed. The committee members, which included claimants' counsel and defense counsel unanimously indicated that their respective firms did not charge their clients for faxes. Based on this information I find that fax charges in the amount of \$123.00 must be disallowed.

¶16 IT IS HEREBY ORDERED that respondent Pacific Employers Insurance Company, pay to petitioner's attorney, Rex Palmer, costs in the amount of \$564.47.

DATED in Helena, Montana, this 14th day of September, 1998.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Rex Palmer

Mr. Leo S.Ward

Submitted: August 14, 1998