

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 32

WCC No. 9709-7824

W.R. GRACE & COMPANY
and TRANSPORTATION INSURANCE COMPANY

Petitioners

vs.

KAREN RILEY

Respondent.

ORDER DENYING MOTION FOR REHEARING

Summary: Although captioned Motion for Rehearing, petitioner has filed a motion to amend the Court's Declaratory Judgment to authorize it to recoup overpayments.

Held: The motion is denied where it is based on an affidavit setting out facts not previously submitted to the Court. The factual record was previously closed.

Topics:

Procedure: Post-Trial Proceedings: Motion for Reconsideration. Motion captioned Motion for Rehearing denied where it was in fact a motion to amend the Court's Declaratory Judgment and was based on factual allegations not made in the proceeding. The factual record was previously closed.

¶1 Petitioner has filed a motion captioned and styled as a Motion For Rehearing. In actuality, the motion is one to amend the Court's Declaratory Judgment to authorize petitioner to recoup overpayments. The motion is based on an accompanying affidavit which sets out facts not previously submitted to the Court.

¶2 The motion is **denied**. The factual record was closed Upon submission of the case for decision.

¶3 SO ORDERED.

DATED in Helena, Montana, this 22nd, day of April, 1998.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Thomas R. Bostock

Mr. Allan M. McGarvey

Submitted: April 15, 1998