

**IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA**

**1993 MTWCC 2**

**WCC No. 9307-6838**

**WCC No. 9303-6751**

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**THOMAS W. HODGETTS**

**Petitioner**

**vs.**

**STATE COMPENSATION INSURANCE FUND/**

**JAMES STAMMERS**

**Defendant/Employer.**

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**ORDER ON MOTIONS TO COMPEL AND FOR SANCTIONS**

The claimant filed motions to compel and for sanctions based on defendant's failure to respond to written discovery within the time limits set by Court rules. Defendant responded by serving answers to the discovery. It also filed an affidavit of counsel conceding its failure to timely respond and setting out the circumstances of that failure. Claimant then filed a lengthy reply brief attacking defendant's responses to the discovery. The brief was filled with tirade and invective.

After consideration of the motion, briefs and affidavit, the Court has determined that the motion should be denied. While the responses were late, and defendant was neglectful, its failure to timely respond does not warrant imposition of sanctions. Furthermore, notwithstanding claimant's attack, its responses were adequate.

The Court is disturbed by the intemperate language of claimant's reply brief. The Court expects counsel appearing before it to act professionally and courteously. Personal attack, invective and hyperbole do not contribute to reasoned analysis of issues before the Court, will be disregarded, and may become the basis for sanctions if used repeatedly.

For the foregoing reasons, IT IS HEREBY ORDERED that claimant's motions to compel and for sanctions are DENIED.

DATED in Helena, Montana, this 28th day of September, 1993.

(SEAL)

/s/ Mike McCarter

JUDGE

c: Mr. Larry W. Jones

Mr. Norman C. Peterson

Ms. Elizabeth A. Horsman-Wiitala