

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1996 MTWCC 9

WCC No. 9508-7378

RAYMOND KUNTZ

Petitioner

vs.

TRAVELERS INSURANCE COMPANY

and NATIONWIDE MUTUAL FIRE

INSURANCE COMPANY

Respondents/Insurers for

PEAVEY COMPANY FLOUR MILLS

and CEREAL FOOD PROCESSORS, INCORPORATED

Employers.

ORDER VACATING TRIAL AND COMPELLING DISCOVERY

Summary: Respondent insurer moved to compel discovery and for a continuance.

Held: Expert witness disclosure of petitioner and one respondent was inadequate since it does not set forth the opinions of vocational expert or the factual basis for those opinions. Continuance granted where discovery not completed.

Topics:

Discovery: Experts. Expert witness disclosure was inadequate where it does not set forth the opinions of vocational expert or the factual basis for those opinions.

Witnesses: Disclosure Requirements. Expert witness disclosure was inadequate where it does not set forth the opinions of vocational expert or the factual basis for those opinions.

Respondent Nationwide Mutual Fire Insurance Company has filed a motion to compel discovery and for a continuance. The Court held a telephone conference call with Mr. Kelly Wills, attorney for Nationwide Mutual Fire Insurance Company, Mr. James Edmiston, attorney for petitioner/claimant, and Mr. William J. Mattix, attorney for Travelers Insurance Company to discuss the motions.

After discussion I ruled that the expert witness disclosure provided by petitioner was woefully inadequate since it does not set forth the opinions of the petitioner's vocational expert or the factual basis for those opinions. Although I do not have a copy of Nationwide's discloser, based on the conversation with counsel it also appears that its disclosure was also inadequate. It also appears that medical records concerning petitioner's psychological condition and their possible contribution to his low-back pain may also be relevant in this case. Petitioner is already in the process of providing those records but they have not yet been provided. I also ascertained that key depositions are scheduled for next week, which is the week prior to trial.

Based on this set of circumstances, I granted a continuance to the next term of Court in Billings, Montana, and lectured all counsel on their obligations to provide full and timely disclosure of expert witness opinions, as required by the scheduling order. The purpose of the scheduling deadlines is to facilitate orderly preparation for trial and to avoid last minute cobbling together of cases.

The Court has not ruled on other discovery issues since it appears that the parties' attorneys are in the process of resolving those issues. In the event they are unable to do so, they may contact the Court for further assistance.

THEREFORE, IT IS HEREBY ORDERED that the trial setting in this matter is vacated and reset for the week of May 6, 1996, in Billings, Montana. A new scheduling order will be issued.

IT IS FURTHER ORDERED that all parties shall exchange the expert witness information required by the Court's original and amended scheduling order.

Dated in Helena, Montana, this 26th day of January, 1996.

(SEAL)

/s/ Mike McCarter

JUDGE

c: Mr. James G. Edmiston

Mr. Kelly M. Wills

Mr. William J. Mattix

Submitted: January 26, 1996