

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA
2003 MTWCC 26
WCC No. 2002-0492

THOMAS METZLER
Petitioner
vs.
PLUM CREEK MANUFACTURING
Respondent/Insurer.

ORDER ENFORCING SETTLEMENT AND DENYING
ATTORNEY FEES AND COSTS

Summary: Respondent employer, a self-insured, moved to enforce a settlement agreement reached with the assistance of the Court's hearing examiner and memorialized in writing, urging that the claimant violated his agreement to release respondent from "all claims" against it by filing a claim for unemployment benefits. Respondent also requested attorney fees for pursuing its motions.

Held: The settlement agreement was unconditional and both parties are seeking to enforce it. They differ only in their interpretation of it. A claim for unemployment benefits is not a claim against the employer; it is a claim against a state maintained fund established by statute, therefore, the claimant did not violate the agreement. Respondent is not entitled to attorney fees. The parties shall execute the stipulation for judgment they agreed to execute and respondent shall then forthwith pay claimant the \$30,000 it agreed to pay.

Topics:

Settlements: Existence. Where the parties memorialize a settlement agreement in writing and the agreement is unconditional and complete other than a provision providing for filing of formal papers effectuating the settlement, the stipulation is a mere formality and the settlement agreement is enforceable.

Settlements: Construing. Where settlement agreement is plain on its face, it will be enforced as written.

Settlements: Release. Where a settlement agreement releases a self-insured employer of all claims against it, the release does not extend to any claim for uninsured employment benefits. A claim against an employer is a claim for which the employer could be liable. A claim for unemployment benefits is a claim against a state maintained fund, not against the employer.

¶1 On February 6, 2003, the petitioner (claimant) and respondent, Plum Creek Manufacturing (Plum Creek), reached a settlement agreement with the assistance of the Court's hearing examiner. They prepared and signed a short summary of the settlement, which provides as follows:

In full settlement of the claims made in the petition in Tom Metzler v. Plum Creek Manufacturing (Workers Compensation Court No. 2002-0492) and all other claims by Tom Metzler against Plum Creek, including but not limited to all claims under the Workers Compensation or Occupational Disease Acts, or for discrimination or wrongful discharge under state or federal law, Plum Creek Manufacturing agrees to pay claimant and his attorney \$30,000 in new money and to waive any claim to recover any monies already paid to claimant under a reservations of rights. This closes all claims against Plum Creek, including claims for medical benefits. Counsel for the parties will prepare a Stipulation for Judgment to be submitted to the Workers' Compensation Court and any other documents necessary to settle all claims against Plum Creek.

(Exhibit A to Plum Creek's Brief in Support of Motion to Enforce Settlement.)

¶2 On February 20, 2003, Plum Creek filed "Plum Creek's Motion to Enforce Settlement Agreement," alleging that claimant violated the agreement in that he "has filed a claim against Plum Creek." The claim in question is a claim for unemployment benefits. (Ex. C to Plum Creek's Brief in Support of Motion to Enforce Settlement.) Plum Creek asks the Court to enforce the settlement agreement, presumably by prohibiting claimant from pursuing unemployment benefits.

¶3 Neither party disputes the fact that they reached a settlement agreement; indeed claimant also seeks to enforce the agreement but argues that he did not violate its terms by filing a claim for unemployment benefits. While the agreement contemplated the filing of a formal stipulation for judgment with this Court and execution of "any other documents" necessary to effectuate the settlement, it is clear that the additional documents were formalities and not a condition precedent to effectuating the agreement. The agreement on its face is unconditional, therefore it is enforceable as written. *See Bar OK Ranch, Co. v. Ehlert*, 2002 MT 12, ¶ 36, 308 Mont. 140, 40 P. 3d 378.

¶4 The memorialized settlement agreement on its face only bars claims against Plum Creek. A "claim **against** Plum Creek" is a claim for which Plum Creek may be liable. The language is plain, therefore it must be enforced as written. *Knutson v. Bitterroot Intern. Systems, Inc.*, 2000 MT 203, ¶ 18, 300 Mont. 511, 5 P.3d 554, 300 Mont. 511.

¶5 Plum Creek's argument that the claim for unemployment benefits is a claim against it is utterly without merit. While the unemployment benefits may be funded, at least in part, by taxes on employers, [\(1\)](#) § 39-51-1103, MCA, a claim for unemployment benefits is against the unemployment insurance fund established by section 39-71-104, MCA. § 39-71-2103, MCA. It is not a claim against Plum Creek and the claimant did not violate the agreement by pursuing unemployment benefits.

¶6 I therefore conclude that the agreement is enforceable and that the claimant did not violate its terms by filing a claim for unemployment benefits.

¶7 Plum Creek also moves for attorney fees and costs pursuant to section 37-61-421, MCA, and the Court's "inherent authority and equitable power to award attorney's fees when justice requires." (Plum Creek's Brief in Support of Motion to Enforce Settlement Agreement at 10.) Section 37-61-421, MCA, provides:

An attorney or party to any court proceeding who, in the determination of the court, multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorney fees reasonably incurred because of such conduct.

Plum Creek argues that claimant's filing of the unemployment claim was "unreasonable, vexatious, and is multiplying this proceeding." (*Id.*)

¶8 Plum Creek's request is utterly without merit, and indeed the request for attorney fees is unreasonable and unwarranted. First, it is not claimant who has multiplied the proceedings. Second, even if claimant's position were erroneous it was not an unreasonable position to take.

ORDER

¶9 Pursuant to the settlement agreement, the parties shall prepare a short stipulation for entry of a judgment adopting the memorandum agreement. It shall say nothing more and nothing less than that the parties stipulate to entry of judgment adopting the settlement agreement as set out in the parties' written and signed memorandum. They shall execute the agreement and file it with the Court within ten days. Upon filing, Plum Creek shall pay forthwith the \$30,000 required by the agreement to claimant and his attorney of record at the time of the settlement agreement.

¶10 The motion for attorney fees is **denied**.

DATED in Helena, Montana, this 9th day of April, 2003.

(SEAL)

\s\ Mike McCarter
JUDGE

c: Mr. Thomas Metzler
Mr. David M. Sandler
Ms. Laurie Wallace (Courtesy Copy)
Submitted: April 4, 2003

1. Montana's unemployment benefits program is tied in with federal unemployment laws and is funded in part by federal funds appropriated by Congress. See section 39-51-104, MCA; 42 USC §§ 501, 503, 1101(c)(1)(A). The sources of unemployment insurance funds are itemized in section 39-51-104, MCA, as follows:

39-51-401. Unemployment insurance fund -- establishment and control. There is established separate and apart from all public money or funds of this state a fund in the enterprise fund type known as the unemployment insurance fund, which must be administered by the department exclusively for the purposes of this chapter. Any reference to the unemployment insurance fund in the Montana Code Annotated means the unemployment insurance enterprise fund. All money in the fund must be mingled and undivided. This fund consists of:

- (1) all contributions collected under this chapter and payments made in lieu of contributions as provided in 39-51-1124 through 39-51-1126;
- (2) interest earned upon any money in the fund;
- (3) any property or securities acquired through the use of money belonging to the fund;
- (4) all earnings of the property or securities acquired by the fund; and
- (5) all money credited to this state's account in the unemployment trust fund pursuant to sections 903 and 904 of the Social Security Act (42 U.S.C. 1103 and 1104), as amended.