

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1994 MTWCC 56A

WCC No. 9212-6637

JOHN RATHMANN

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

Respondent/Insurer.

ORDER DENYING PETITION FOR RECONSIDERATION

On April 27, 1994, the Court entered an Order Denying Attorney Fees, Costs and Penalty. On May 10, 1994, it entered Judgment Dismissing Petition Without Prejudice. On May 31, 1994, the petitioner filed a motion seeking reconsideration of the April 27, 1994 Order. The motion is **denied**.

Initially, the Court's rules do not contain a provision for reconsideration of a judgment once entered except in cases where the matter has gone to trial. Rule 24.5.344 ARM applies only to petitions for new trial or requests to amend findings of fact issued after trial. This matter did not go to trial and no findings were ever issued.

Even if the Court has jurisdiction to entertain the motion, claimant has failed to establish good cause to rescind or amend the prior determination. He is incorrect in arguing that federal law and procedure, rather than Montana law and procedure, apply to his claim for attorney fees, costs and penalty. As to his claim that a penalty should be imposed because the State Fund has not paid medical benefits even after accepting the claim, claimant is free to pursue his allegations in mediation and, if still unresolved, some future petition.

DATED in Helena, Montana, this 20th day of June, 1994.

(SEAL)

/s/ Mike McCarter

JUDGE

c: Mr. John Rathmann - Certified Mail
Mr. Thomas E. Martello