

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

**1999 MTWCC 58**

**WCC No. 9905-8222**

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**EMPLOYMENT RELATIONS DIVISION  
INDEPENDENT CONTRACTOR CENTRAL UNIT**

**Petitioner/Complainant**

**vs.**

**RISING WOLF CONSTRUCTION, INCORPORATED,**

**Respondent.**

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**JUDGMENT**

**Summary:** Independent Contractor Central Unit determined four individuals were employees of Rising Wolf, not independent contractors. Rising Wolf appealed, but no attorney appeared on the appeal, no response was made by Rising Wolf to Court's Order requiring notice of representation, and no other communications were received from appellant. Respondent moved for entry of default judgment.

**Held:** Default judgment entered. Determination of ICCU affirmed and adopted as judgment of WCC.

**Topics:**

**Procedure: Default.** Company appealed determination of Independent Contractor Central Unit, Employment Relations Division, that four individuals were employees, not independent contractors. When no attorney entered appearance for employer, no response was filed to WCC's order for designation of attorney, and no other communications were received from employer, default judgment entered in favor of Respondent ICCU.

¶1 This is an appeal by Rising Wolf Construction, Incorporated (Rising Wolf), from a determination of the Independent Contractor Central Unit of the Department of Labor and Industry finding that four workers named Steven Barr, Curtis Cantrell, Loren Forrest, and Caleb Gourneau were employees of Rising Wolf and not independent contractors. On July 29, 1999, the Court issued and served its order granting continuance; order requiring respondent to give notice of representation by counsel. Under the Order, Rising Wolf was required to cause its attorney to file a notice of appearance on or before August 25, 1999,

and expressly notified that if no notice of appearance of its attorney was filed by that date "the Court will consider a motion for default." No appearance or other communication has been filed or lodged with the Court and the Department now moves for entry of a default judgment against Rising Wolf.

¶2 Finding good cause, JUDGMENT IS ENTERED AS FOLLOWS:

¶3 1. The Workers' Compensation Court has jurisdiction over Rising Wolf's challenge to the determination of the Independent Contractor Central Unit of the Department of Labor and Industry. §§ 39-71-401(3) and 39-71-415, MCA (1999).

¶4 2. Rising Wolf is in default for its failure to respond to and comply with the Court's July 29, 1999 Order.

¶5 3. The March 10, 1999 determination of the Independent Contractor Central Unit of the Department of Labor and Industry finding that four workers named Steven Barr, Curtis Cantrell, Loren Forrest, and Caleb Gourneau were employees of Rising Wolf Construction, Incorporated, and not independent contractors, is **affirmed** and **adopted** as the Court's judgment in this case.

DATED in Helena, Montana, this 28<sup>th</sup> day of September, 1999.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Patrick A. Trammelle

Mr. John M. Gray - Certified Mail

Mr. Jerry Keck