

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1994 MTWCC 21

WCC No. 9305-6795

INDUSTRIAL INDEMNITY INSURANCE COMPANY

Petitioner

vs.

ROBERTA C. RYAN

Respondent - Cross Petitioner.

**ORDER REGARDING DEPOSITIONS;
ORDER DENYING MOTION TO COMPEL**

Respondent, Roberta Ryan (claimant), has filed a motion requesting that depositions be conducted by telephone and for an order compelling petitioner to supply an itemization of documents. The petitioner has no objection to claimant participating in depositions by telephone and the request for an order compelling the itemization is not warranted.

The Court has also reviewed the matter of depositions and finds that its prior order concerning deposition use should be clarified by written order.

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Claimant, but not her husband, may participate in depositions by telephone. The petitioner shall arrange for a speaker phone at each deposition and shall initiate the telephone call to connect claimant. Petitioner shall bear the telephone costs.
2. The Court has previously entered an order providing that the deposition of any witness shall be admissible only if the witness is unavailable within the meaning of the Montana Rules of Evidence. However, the Montana Rules of Civil Procedure provide for a 100 mile rule of unavailability, and that rule is applied in the other courts of this State. Therefore, the Court in this case will deem any witness who does not live, or cannot be found, within 100 miles of the place of trial to be unavailable for the purpose of offering his or her deposition at trial.
3. The motion to compel an itemization is **denied**.

DATED in Helena, Montana, this 4th day of March, 1994.

(SEAL)

/s/ Mike McCarter
JUDGE

c: Mr. Charles C. McNeil
Ms. Roberta C. Ryan