

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1994 MTWCC 13

WCC No. 9305-6795

INDUSTRIAL INDEMNITY INSURANCE COMPANY

Petitioner

vs.

ROBERTA C. RYAN

Respondent/Claimant.

ORDER ON VARIOUS MOTIONS OF RESPONDENT

The respondent, Roberta C. Ryan, has filed various motions. The Court will rule on those motions in the order presented.

I. Request for informal disposition.

Respondent seeks an order for informal disposition under Court rule 24.5.333. That rule, however, provides for informal disposition only where there is a "stipulation, agreed settlement, consent order, or default." It does not appear that any of these things have occurred. Therefore, the motion is **denied**.

II. Motion to reconsider decision prohibiting John Ryan from representing respondent.

On August 6, 1993, Judge Timothy W. Reardon entered an Order barring John R. Ryan, who is the spouse of the respondent, from representing her before the Court. The present Judge agrees with the Order. Therefore, respondent's request for reconsideration is **denied**.

III. Motion for telephonic pretrial conference.

It appears that the respondent is a resident of Omaha, Nebraska, therefore her request for a telephone pretrial conference is **granted**. The conference shall be conducted by Clarice V. Beck, Hearing Examiner for the Court. Respondent may participate in that conference, however, her husband, John Ryan, and any other non attorney may not participate.

IV. Request for an order that petitioner submit documentation in affidavit form.

Court rule 24.5.324 provides the procedure for requesting documents from an opposing party. Petitioner's response indicates that documents sought by respondent have been provided. That is all that is required by the rule. The motion is therefore **denied**.

V. Motion to "COMPEL PETITIONER TO REQUEST PERMISSION FROM INSURER TO DEPOS [SIC] WITNESSES MENTIONED TIMELY."

The title of this motion is quoted above. The text of the motion reads:

THE ABOVE MENTIONED EXHIBITS REQUIRES THE PETITIONER TO REQUEST PERMISSION FROM THE INSURER TO DEPOS [sic] THE WITNESSES THEY PLAN TO CALL FOR TESTIMONY TIMELY. THE ORIGINAL SETTING OF THE PRETRIAL CONFERENCE AND FOLLOWING COURT TRIAL DATE, DID NOT ALLOW ENOUGH TIME FOR PROPER DISCOVERY BY THE CLAIMANT. WAS ALL THIS DESIGNED TO CREATE MORE TIME DELAYS, AND REQUIRE MORE TRIAL DELAYS?

The request is incomprehensible to the Court. The trial in this matter is scheduled for the week of January 17, 1994, and there is still time for additional discovery including depositions. Either party may notice and take a deposition. Respondent has been urged many times to obtain counsel to represent her. Therefore, should she personally notice and take any deposition, and then obtains an attorney, her attorney will not be allowed to take a second deposition of any such witnesses absent a showing of extraordinary circumstances. Belatedly obtaining counsel will not be deemed an extraordinary circumstance. All depositions must be noticed and taken in compliance with the rules of the Court.

VI. Request to "COMPEL PETITIONER TO SUBMIT EVIDENCE OF INJURIES CLAIMANT SUSTAINED AFTER 1 JANUARY 1987."

Respondent may utilize the discovery procedures permitted under Court rules to determine what information and documents petitioner may have concerning a second injury. The respondent will have to comply with Court rules to obtain that information. The motion is therefore **denied**.

Finally, in response to the respondent's motions, the petitioner has requested the Court to strike " claimant's exhibits from the record which include any comment upon mediator's recommendations, and any offers of settlement or negotiation" and "any exhibits which contain comments on the evidence." Since the exhibits have already been received and made a part of the Court file, and petitioner has not directed the Court to specific exhibits and specific comments, the motion is **denied**. However, any comments concerning mediation or settlement negotiations as well as comments on evidence will be disregarded.

Respondent is again urged to retain counsel to represent her. It is clear from the documents filed by her, and previously by her husband, that neither she nor her husband understand the rules and procedures of the Court. Irrespective of that lack of understanding, the respondent, as all other parties appearing before the Court, is bound to follow those rules and procedures.

DATED in Helena, Montana, the 3rd day of November, 1993.

(SEAL)

/s/ Mike McCarter

JUDGE

c: Mr. Charles E. McNeil

Ms. Roberta C. Ryan