

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1994 MTWCC 68

WCC No. 9305-6795

INDUSTRIAL INDEMNITY INSURANCE COMPANY

Petitioner

vs.

ROBERTA C. RYAN

Respondent/Claimant - Cross-Petitioner.

ORDER ON MOTION TO COMPEL

On June 16, 1994, this Court entered a Second Order Regarding Withheld Documents requiring Industrial Indemnity Insurance Company (Industrial) to submit complete and accurate copies of all withheld documents for in camera review by the Court's hearing examiner to determine which documents are protected by the attorney-client privilege and/or the work product doctrine, and which documents are discoverable and should be provided Mrs. Ryan (claimant).

In recent discovery orders, the Court has discussed the protection afforded by the attorney-/client privilege and the work product doctrine. *Richard Blount v. Conagra, Inc.*, WCC No. 9304-6769 (March 16, 1994); *Craig A. Adels v. Cigna Insurance Co.*, WCC No. 9307-6831 (March 10, 1994); *Steven K. Yager v. Montana Schools Group Insurance*, WCC No. 9308-6872 (March 14, 1994). The review herein has been conducted pursuant to the guidelines laid down in those decisions. Since Mrs. Ryan has made a broad request for all of the withheld documents, and has not provided any supporting rationale with regard to individual documents, the Court will not engage in a document by document discussion of the reasons for its determinations.

Eight sets of documents (labeled by the Court as Volumes 1 through 8), comprising approximately 452 pages, were submitted to the Court. The Court's hearing examiner has determined the status of each document, as follows:

Volume 1

Page

1 Attorney-Client privilege

2 Information relating to the claimant is discoverable. Other information within the

document is confidential and may be redacted.

3 Illegible

Volume 2

1-54 Work Product

Volume 3

1 Work Product

2-4 Attorney-Client privilege

5-11 Work Product

12 Attorney-Client Privilege

13-25 Work Product

26-31 Attorney-Client privilege

32-37 Work Product

38-40 Discoverable by claimant

41 Work Product

42-56 Discoverable by claimant

57-58 Work Product

59-67 Discoverable by claimant

68 Work Product

69-72 Discoverable by claimant

73 Work Product

74 Discoverable by claimant

Volume 4

1 Attorney-Client

2 Discoverable by claimant

3-4 Attorney-Client

5-9 Work Product

10-11 Discoverable by claimant

12-16 Work Product

17-23 Attorney-Client, Work Product

24-25 Work Product

26 Attorney-Client

27-28 Work Product

29 Attorney-Client

30-31 Discoverable by claimant

32-33 Attorney-Client

34-49 Work Product

50-75 Discoverable by claimant

76-79 Work Product
80-98 Discoverable by claimant
99-102 Work Product
103-107 Attorney-Client
108-115 Work Product
116-117 Attorney-Client
120-125 Work Product
126-127 Unintelligible
128-131 Work Product

Volume 5

1-6 Work Product
7-8 Attorney-Client
9-24 Discoverable by claimant
25-42 Attorney-Client
43-44 Work Product
45-49 Attorney-Client
53-54 Work Product
55-68 Attorney-Client
69-77 Work Product
78 Attorney-Client
79 Work Product
80-81 Discoverable by claimant
82-83 Work Product
84-87 Attorney-Client
88-90 Discoverable by claimant
91-92 Attorney-Client
93 Discoverable by claimant
94-98 Attorney-Client
99-102 Work Product
103-106 Attorney-Client
107 Discoverable by claimant
108-109 Attorney-Client
110 Work Product
111 Attorney-Client
112 Work Product
113-116 Attorney-Client
117-118 Work Product
119-121 Attorney-Client

Volume 6

1 Attorney-Client
2-11 Discoverable by claimant

Volume 7

1-9 Work Product
10-12 Discoverable by claimant

Volume 8

1-4 Work Product
5-23 Discoverable by claimant
24-27 Work Product
28-37 Discoverable by claimant
38 Only the information relating to claimant is discoverable - all other information is confidential and shall be redacted.
39-40 Discoverable by claimant
41 Work Product
42-46 Discoverable by claimant

In summary, on or before August 15, 1994, Industrial shall provide the following documents to the claimant:

Volume 1 p. 2 (redacted so it contains only information pertaining to the claimant.)
Volume 3 pp. 38-40; 42-56; 59-67; 69-72 and 74.
Volume 4 pp. 2, 10, 11, 30, 31, 50-75, and 80-98.
Volume 5 pp. 9-24, 80,81,88-90, 93, and 107.
Volume 6 pp. 2-11.
Volume 7 pp. 10-12.
Volume 8 pp. 5-23, 28-37, 38 (redacted so it contains only information pertaining to the claimant), 39-40, and 42-46.

Industrial shall also produce for a further in camera inspection by the Court, readable copies of those exhibits which are illegible, i.e. Volume 1, p.3 and Volume 4, pp. 126 and 127.

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

The claimant's motion to compel production is granted as to the specific documents which are identified in this Order, and is denied as to the remainder of the documents.

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

(SEAL)

/s/ Mike McCarter

JUDGE

c: Mr. Charles E. McNeil

Ms. Roberta C. Ryan - Certified to Nebraska and Wyoming