

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 9304-6778

PATRICK STEVENS

Petitioner

vs.

STATE COMPENSATION INSURANCE

FUND/STANFORD STEVENS

Defendant/Employer.

ORDER ADOPTING FINDINGS OF FACT

AND CONCLUSIONS OF LAW OF

HEARING EXAMINER AND ENTERING JUDGMENT

The above-entitled matter was duly heard by Court-appointed Hearing Examiner, ROBERT J. CAMPBELL who conducted the hearing, considered the evidence and prepared and submitted Findings of Fact and Conclusions of Law and Proposed Judgment for consideration by the Court.

The Court has reviewed the record of the proceedings. The record clearly supports the conclusion of the hearing examiner that petitioner is entitled to benefits and was not guilty of fraud. Carolyn Becker's inconsistent stories, bias, and fabricated story of a conversation with a deceased individual were fatal to the fraud allegations against petitioner.

The Court also agrees with the hearing examiner's conclusion that petitioner is not entitled to a penalty or attorney fees. However, additional discussion of that matter is warranted.

The petitioner's industrial accident occurred on October 25, 1990. Thus, the 1989 workers' compensation laws apply to his request for a penalty and attorney fees. Section 39-71-2907(1), MCA (1989) provided in relevant part:

When payment of compensation has been unreasonably delayed or refused by an insurer . . . the order granting a claimant compensation benefits may be increased by the workers' compensation judge by 20%. [Emphasis added.]

Section 39-71-611, MCA (1989) governs the award of any attorney fee, and provided in relevant part:

(1) The insurer shall pay reasonable costs and attorney fees as established by the workers' compensation court if:

(a) the insurer denies liability for a claim for compensation or terminates compensation benefits;

(b) the claim is later adjudged compensable by the workers' compensation court; and

(c) in the case of attorneys' fees, the workers' compensation court determines that the insurer's actions in denying liability or terminating benefits were unreasonable. [Emphasis added.]

Thus, neither a penalty nor attorney fees are automatically awarded merely because a claimant prevails at trial. They are to be awarded only where the actions of the insurer were "unreasonable."

The imposition of a penalty is inappropriate where there is a legitimate factual or legal dispute concerning benefits under the Workers' Compensation Act. **See Garmann v. E.R. Fegert Co.,** 226 Mont. 432, 437, 736 P.2d 123 (1987); **Hengel v. Pacific Hide & Fur Depot,** 224 Mont. 525, 530, 730 P.2d 1163 (1986). The penalty provided by the Act was not "intended to eliminate the right of the insurer to assert a legitimate defense." **Van Daveer v. Stauffer Chemical Co.,** 200 Mont. 218, 225, 657 P.2d 1142 (1982). Since the attorney fee statute adopts a similar "unreasonableness" standard, these principles apply as well to any award of attorney fees.

The reasonableness of the State Fund's termination of petitioner's benefits must be judged in light of what it knew at the time of the termination and during the period leading up to trial. The first fact of consequence was the report of petitioner's ex-wife that petitioner was not injured at work, and her willingness to testify under oath at any trial. Her possible bias against her ex-husband did not render her either incompetent to testify or incredible. As a general matter, a witness is competent to testify unless "he is incapable of expressing himself or is incapable of understanding the duty to tell the truth." **State v. Van Dyken,** 242 Mont. 415, 435, 791 P.2d 1350 (1990). Even a convicted perjurer is a competent witness. **State v. Barick,** 143 Mont. 273, 284, 389 P.2d 170 (1964). Finally, the testimony of a single witness, if believed by the fact finder, is sufficient to sustain a verdict, **State v. Azure,** 181 Mont. 47, 55, 591 P.2d 1125 (1979), irrespective of the witness' bias, **Anas v. State,** 726 P.2d 552 (Alaska Ct. App. 1986). Prosecutors in criminal cases often rely on

individuals with checkered backgrounds and obvious bias. Lacking some obvious and overwhelming flaw in the evidence provided by Carolyn Becker (petitioner's ex-wife) it was not unreasonable for the State Fund to rely on her information.

Moreover, other information known by the State Fund provided some corroboration for Mrs. Becker's claim that her ex-husband did not suffer a job-related injury. The workers' insurance policy covering the accident became effective the same day as the injury. The employer was the petitioner's father and previously was without workers' compensation insurance coverage. The State Fund was aware of these circumstance at the time it accepted petitioner's claim, and it apparently raised some suspicion about the claim. However, it does not appear that the State Fund at that time had additional information which would support anything more than a suspicion. Carolyn Becker's coming forward, however, changed that.

The State Fund was also aware that a professional criminal investigator from the Montana Department of Justice had conducted an investigation. Bill Visser, who made the decision to cut off benefits, had discussed the case with one of the investigators, who confirmed Carolyn Becker's willingness to testify. There is nothing to indicate that Visser was told by the investigators that Becker was not credible.

In summary, the State Fund had a reasonable albeit imperfect basis for believing that petitioner was not injured on-the-job and was therefore not entitled to benefits. While it might be criticized for not seeking Court permission to cut off benefits, there is nothing in the statutes which required it to do so. The statutes make no distinction between a denial of benefits in the first instance or a later termination. The same "reasonableness" considerations applicable to an initial denial of benefits therefore apply to an insurer's unilateral decision to terminate benefits.

This case, however, should serve as a caution to the State Fund and other insurers. Not every accusation of fraud is true, and some accusations, while true, may not be provable. Care should be exercised in evaluating all such accusations and, like prosecutors, insurers should evaluate all evidence available to them, conduct further investigation where needed and use good judgment in determining which cases warrant action. While the evidence in this case did not show that the State Fund acted unreasonably, requests for penalties and attorney fees in future failed cases will have to be evaluated according to their own facts. There may even be circumstances where the existence of an accuser willing to testify against the claimant may not be a sufficient basis to either deny benefits or avoid imposition of a penalty and attorney fees.

Having considered the record in the above-captioned matter, considered the Findings of Fact and Conclusions of Law and Proposed Judgment of the Hearing Examiner, the Court hereby makes and enters the following Order and Judgment.

IT IS HEREBY ORDERED the Findings of Fact and Conclusions of Law and Proposed Judgment of the Hearing Examiner are adopted.

IT IS FURTHER ORDERED the Judgment is to be entered as follows:

JUDGMENT

1. This Court has jurisdiction over this matter pursuant to section 39-71-2905, MCA.
2. A preponderance of the credible evidence supports the conclusion that claimant suffered an industrial injury on October 25, 1990, arising out of the course and scope of his employment with Stanford K. Stevens.
3. The Court cannot decide the issue of whether claimant has been working at his "job of injury" since his injury.
4. The evidence presented does not justify the termination of claimant's compensation benefits on April 22, 1993 and he is entitled to such benefits retroactive to the date of termination.
5. Claimant is not entitled to a 20 percent penalty for unreasonable refusal to provide benefits pursuant to section 39-71-2907, MCA.
6. Claimant is not entitled to attorney fees pursuant to section 39-71-611, MCA, in accordance with ARM 24.5.343, but is entitled to reasonable costs.
7. Defendant made reasonable inquiry into allegations contained in defendants pleadings.
8. Defendant is not entitled to reimbursements for benefits paid or attorney fees and costs from either the claimant or the employer.
9. The JUDGMENT herein is certified as final for purposes of appeal pursuant to ARM 24.5.348.
10. Any party to this dispute may have 20 days in which to request a rehearing from this Order Adopting Findings of Fact and Conclusions of Law and Proposed Judgment of the Hearing Examiner and Entering Judgment.

DATED in Helena, Montana, this 3rd day of December, 1993.

(SEAL)

/s/ Mike McCarter

JUDGE

WCC No. 9304-6778

PATRICK STEVENS

Petitioner

vs.

STATE COMPENSATION INSURANCE

FUND/STANFORD STEVENS

Defendant/Employer.

Presiding Hearing Examiner: ROBERT J. CAMPBELL

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ON BEHALF OF THE EMPLOYER

FINDINGS OF FACT AND CONCLUSIONS OF LAW
AND PROPOSED JUDGMENT

1. Claimant filed a petition to resolve a dispute between himself and the insurer under Title 39, Chapter 71, Part 29, MCA.

2. The Clerk of Court gave notice to interested parties of (a) the time, place and nature of the trial; (b) the legal authority and jurisdiction under which the trial was to be held; (c) the particular sections of the statutes and rules involved; and (d) the matters asserted by notifying all parties who appeared of record to have an interest by mailing to them a copy of the ORDER SETTING TRIAL AND PRETRIAL CONFERENCE with a copy of the PETITION FOR EMERGENCY HEARING AND DECLARATORY RELIEF attached and a copy of the Clerk's Certificate of Mailing the Order and Petition. Section 2-4-601, MCA.

3. A pretrial conference was conducted on May 24, 1993, before Clarice V. Beck, Hearing Examiner. The Pretrial Order was docketed on August 23, 1993. Pertinent parts of the Pretrial Order are as follows:

A. STATEMENT OF JURISDICTION

The Workers' Compensation Court has jurisdiction in the above-entitled matter pursuant to § 39-71-2901 and 2905, M.C.A.

....

C. STATEMENT OF UNCONTESTED FACTS

1. The Defendant State Fund provided Workers' Compensation coverage for the Employer Stan Stevens effective October 25, 1990.

2. Claimant filed his claim and liability was accepted by the State Fund.

3. Payment of Workers' Compensation benefits commenced on December 24, 1990.

4. Claimant was paid Temporary Total disability benefits in the amount of \$233.33 per week for the period 11/01/90 through 10/23/91.

5. Claimant was paid Total Rehabilitation benefits in the amount of \$233.33 per week from 10/24/91 through the date that benefits were terminated pursuant to "14-Day" notice.

6. Between 04/30/92 and 06/30/93, Claimant received \$20,246.20 for his 29% impairment award.

7. On April 22, 1993, Defendant issued and Claimant subsequently received the above-mentioned "14-Day" notice.

8. Claimant's correct Temporary Total disability and his Total Rehabilitation rate are \$233.33 per week. His correct Permanent Partial disability rate for purposes of calculating his impairment award is \$149.50. No Wage Supplement benefits have been paid.

9. Total wage benefits paid to date are \$50,845.10. Total medical benefits paid to date are \$18,458.86.

10. There has been a complete exchange of all medical records.

4. The parties have proposed and the Court adopts the following issues to be decided by the Court:

1. Whether Claimant suffered an industrial injury on October 25, 1990 arising out of the course and scope of his employment for the Employer Stanford K. Stevens.

2. Whether, as Defendant contends, Claimant obtained his workers' compensation benefits by means of fraud or other misrepresentation by himself and/or Stanford K. Stevens.

3. Whether Claimant has been working at his "job of injury" employment at any time since his injury.

4. Whether the allegations made by the Defendant in any of the pleadings herein, are well grounded in fact and/or whether the Defendant made reasonable inquiry into the allegations set forth in the Defendant's pleadings herein.

5. Whether the termination of Claimant's benefits was unreasonable within the meaning of M.C.A. 39-71-611 and/or 612 and/or M.C.A. 39-71-2907.

6. Whether Claimant is entitled to his costs and attorney fees.

7. Whether Claimant is entitled to the 20% penalty.

8. Whether the Defendant is entitled to reimbursement for benefits paid and its attorney fees and costs from either the Claimant, the Employer or both.

5. The trial in this matter came on August 23-25, 1993, in Billings, Montana before Hearing Examiner Robert J. Campbell. Exhibit Nos. 1 through No. 9 were stipulated into evidence. Exhibit Nos. 10 through No. 14 were offered into evidence and admitted without objection. Exhibit No. 15 was offered by defendant and not admitted. Exhibit Nos. 16 and No. 17 were admitted into evidence for impeachment purposes over the objection of defendant. Claimant Patrick Stevens, Carolyn Becker, Lance Zanto, Willem Visser, Harold Patrick Hughes, Tom Woods, Dr. Neil Meyer and Clayton Fosjord were sworn and testified. The depositions of Patrick Stevens, Stanford Stevens, Joyce Stevens, Stanford Mark Stevens, Kelly Stevens, Gregory Stone, Mary Lou Berg, Max E. Thornton, Terry D. Harper, Thomas B. Woods, Del Fritzler, Carolyn Becker, Stephen Becker, James L. Becker, Ben A. Becker, Charles P. Lee, Lance Zanto, Willem Visser, Cheryl Rivera, Steven L. Kukowski, Thomas E. McCormick, Bud Fritzler, Marla L. Fritzler, Kay Becker, Patrice F. Hawley and Vernon F. Hawley were admitted into evidence along with the exhibits attached to such depositions.

After the submission of the Proposed Findings of Fact, Conclusions of Law, and Proposed Judgments, this matter was deemed submitted on November 16, 1993.

6. The undersigned, having reviewed the pleadings, considered the Pretrial Order and the exhibits admitted into evidence, heard the testimony and observed the demeanor of the witnesses at trial and being fully advised in the premises, now makes the following Findings of Fact and Conclusions of Law and Proposed Judgment:

FINDINGS OF FACT

1. The uncontested facts are found as fact and adopted as fact.
2. This case came before the Court when claimant filed an emergency petition on April 29, 1993, seeking reinstatement of benefits following their termination by the defendant pursuant to a 14-day notice dated April 22, 1993. (Ex. No. 1 at 27.)

Claimant

3. At the time of trial, claimant was 39 years old, divorced and the father of two daughters. He is a high school graduate who has attended Montana State University and Eastern Montana College as well as the University of Montana. Claimant married Carolyn Stevens on October 18, 1980. Carolyn Stevens is remarried and is now known as Carolyn Becker. The claimant had one daughter, Amanda, age ten, from his marriage with Carolyn. Claimant and Carolyn Stevens were divorced on February 28, 1992. (Tr. at 137.)

Claimant's Injury

4. Claimant testified that about 8:30 or 9:00 a.m. on October 25, 1990, he was working for his father on a grain drill which he was preparing for planting of the winter wheat crop. (Tr. at 160-161; Dep. of Claimant at 60-62.) Claimant testified that he was three feet off the ground when he fell backwards and landed on his buttocks. When he hit the ground he felt something "give in my lower back" but did not immediately experience pain. (Tr. at 162-163.) He began feeling pain by 10:30 a.m. when he returned home, took a hot shower and laid down on the floor of the trailer. (Tr. at 165.) By 1:00 or 1:30 p.m. his left leg was numb and felt like dead weight. (Tr. at 166.) He told his wife that he had a "real problem" and that he needed to go to the hospital. (Tr. at 167.) Shortly after 2:00 p.m., Carolyn helped him into the car and took him to St. Vincent's Hospital. (Tr. 168.)

5. Claimant went to the Emergency Room at St. Vincent's Hospital in Billings at 2:44 p.m. on October 25, 1990. (Ex. No. 8 at 1, 7.) An MRI taken at that time revealed a large herniated disc at L3-L4. (*Id.* at 10.) Examination revealed "completed foot drop" or paralysis on the left, "partial foot drop on the right". (*Id.* at 37.) His surgeon Dr. Neil Meyer testified at trial that the pre- and post-injury findings were consistent with the claimant's statement of how and when the injury occurred. (Tr. at 409.)

Challenge to Claimant's Injury

6. Claimant's ex-wife, Carolyn Becker, testified that claimant injured his back when they were on a fishing trip in July 1990. (Tr. at 311.) She testified that on previous occasions when claimant had thrown his back out, he was able to continue working until a week to ten days before he went to the hospital. (Tr. at 312.)

7. The basis for terminating the claimant's benefits were the statements of Carolyn Becker that the claimant had actually been injured ten days prior to October 25, 1990. (Tr. at 70-81, 77-81, and 101-110.) In her December 1992 statement to the State Fund investigator Greg Stone, Ms. Becker related that the claimant had been "injured a couple of days up to one week before having surgery." (Ex. No. 9 at 5.)

8. In her deposition on July 27, 1993, Carolyn Becker testified that for a week to ten days prior to the time he was admitted to the hospital, claimant laid on his back in the living room of the Steven's trailer night and day in pain. (Dep. of C. Becker at 22-23; Tr. at 367-368.)

9. Claimant's uncle, Harold Patrick Hughes, testified at trial and the Court finds him to be a credible witness. He testified that he saw claimant and then wife, Carolyn Becker, at the Northern International Livestock Exhibition in Billings. Claimant showed no signs of suffering from pain nor having a disabling back injury. (Tr. at 274-275.)

10. Claimant's father, Stanford K. Stevens, testified by deposition that he saw the claimant on several days prior to October 25, 1992, and there was nothing wrong with him. He was not aware of his son's injury until someone called him from the hospital. (Dep. of S. Stevens at 48-53.)

11. Investigation of the statements of Carolyn Becker was assigned to Greg Stone and Tom Woods. During his investigation Tom Woods convinced Carolyn Becker to telephone claimant to discuss his workers' compensation claim. Mr. Woods prepared a statement to read, listened in, and surreptitiously recorded the conversation on March 8, 1993. (Ex. No. 3 at 86.) Despite fabricated threats of jail time in the conversation, no incriminating statements were made by Patrick Stevens.

12. Carolyn Becker testified by deposition and at trial that during the week to ten day period prior to October 25, 1990, she told the neighbor's hired man, Layne Nelson Coley, about claimant laying on the floor of the trailer in pain. (Tr. at 338-339.) On cross-examination Carolyn Becker repeated her testimony that she had informed Layne Nelson Coley that claimant Patrick Stevens had been injured prior to October 25, 1990. (Tr. at 339.) However, impeachment evidence was introduced to show that Layne Nelson Coley died on August 10, 1990, some two months prior to her alleged conversation. (Tr. at 372-377; Ex. Nos. 16-17.) Carolyn Becker had no explanation for her testimony.

13. When Carolyn Becker divorced the claimant, she married a rancher in the area and admits that there is "bad blood" between claimant, claimant's entire family, and herself. (Dep. of C. Becker at 39-40.) The testimony of Carolyn Becker, concerning claimant's alleged seven to ten days spent on the living room floor in pain, is inconsistent with a preponderance of the evidence presented. Her testimony to investigators, in her deposition, and at trial concerning a conversation in October 1990 with Layne Nelson Coley, who died August 10, 1990, results in the Court finding she is not a credible witness.

Claimant's Testimony

14. Claimant has consistently testified that he injured his back around 8:30 or 9:00 a.m. on October 25, 1990, when he fell approximately three feet from a grain drill that he was preparing for planting on his father's land. (Tr. at 160-161; Dep. of P. Stevens at 60-62; Ex. No. 10.)

Claimant's Credibility

15. After observing the demeanor of the claimant and having read the deposition testimony of the claimant and noting no inconsistencies in the claimant's deposition testimony and corroboration by other witnesses, the Court finds the claimant to be a credible witness.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over this proceeding pursuant to section 39-71-2905, MCA.
2. A preponderance of the credible evidence supports the conclusion that claimant suffered an industrial injury on October 25, 1990, arising out of the course and scope of his employment with Stanford K. Stevens.

When the claim for compensation was filed, the State Fund found no reason to question the claim nor the medical expenses for the necessary surgery.

A 14-day notice by the State Fund on April 22, 1993, discontinued compensation payments to claimant, Patrick Stevens. The only basis for the termination of benefits was the statements of Carolyn Becker, who questioned the authenticity of the original injury. Such information, if credible, raises a suspicion to investigate fraud.

The suspicions raised by the statements of Carolyn Becker started the investigation and were relied upon by the insurer for terminations of claimant's benefits.

After an extensive investigation and unsuccessful taped telephone conversation, the evidence of fraud depended upon the credibility of Carolyn Becker. A critical look at the basis of her testimony may have convinced the State Fund that her statements were not supported by substantial credible evidence. After reviewing the eight witnesses, twenty-seven depositions, and hundreds of pages of exhibits, the Court concludes that the testimony of Carolyn Becker is not credible.

In weighing the testimony of Carolyn Becker, serious doubts arose at trial as to the accuracy of this testimony. The first unexplained inconsistency in her testimony occurred when she testified at trial, and had previously told State Fund investigators, that claimant was immobilized in pain on the floor of their mobile home for approximately ten days prior to the October 25, 1990 date he was admitted to St. Vincent's Hospital. Appearing at trial, his Uncle Harold Patrick Hughes of Polson testified that when he and his wife were in Billings for the Red Angus Sale the evening of October 18, 1990, he saw Patrick Stevens and Carolyn and claimant showed no sign of pain. (Tr. at 274.) Mr. Hughes also saw claimant on Friday October 19, 1990. (Tr. at 278.)

The second and most damaging evidence lessening Carolyn Becker's credibility was her statement both to the investigator from the Attorney General's Office and at trial when she said that she had talked to her neighbor Layne Nelson Coley about the fact that Patrick was in pain, laying on the floor of the mobile home ten days prior to October 25, 1990. Cross-examination and entry of Exhibit No. 16 shows that Layne Nelson Coley died August 10, 1990, some eight weeks prior to the alleged conversation. No explanation was provided by Carolyn Becker to explain the basis for her inaccurate sworn testimony. A witness is presumed to speak the truth but when one part of the testimony is false, the remainder of the testimony is distrusted. Sections 26-1-302, MCA and 26-1-303(3), MCA.

Without the testimony of Carolyn Becker, defendant has not provided credible evidence that claimant has engaged in fraud or other misrepresentation in filing this claim.

3. The Court cannot decide the issue of whether claimant has been working at his "job of injury" since his injury.

Neither party has briefed the issue of whether claimant has been working at his "job of injury" any time since his injury. Although raised as an issue, the Court finds no basis for resolving the alleged dispute.

4. The evidence presented does not justify the termination of claimant's compensation benefits on April 22, 1993 and he is entitled to such benefits retroactive to the date of termination.

Examining the evidence presented at trial the Court concludes that such evidence does not support the termination of claimant's benefits pursuant to section 39-71-610 MCA (1989).

The information relied on by the defendant is its April 22, 1993 termination notice at the time appeared sufficient. However, after hearing all the evidence, it is found to be insufficient to deny claimant benefits.

5. Claimant is not entitled to a 20 percent penalty for unreasonable refusal to provide benefits pursuant to section 39-71-2907, MCA.

Defendant's reliance on the statements of Carolyn Becker initially provided a legitimate basis for investigating a possible fraud by the claimant. However, the investigators failed to examine her truthfulness, verify her statements, or question her motivation.

At the time of terminating claimant's benefits, defendant had the information provided by Carolyn Becker which, in part, was supported by an anonymous caller. Although the later evidence produced at hearing discredited the testimony of Carolyn Becker, the Court does not find that defendant's action based on the information available on April 22, 1993 was unreasonable. Defendant had a witness willing to testify and he was partially corroborated.

It was not unreasonable for defendant to proceed in terminating claimant's benefits by the April 22, 1993 letter pursuant to section 39-71-610 MCA (1989) and no penalty is warranted.

6. Claimant is not entitled to attorney fees pursuant to section 39-71-611, MCA, in accordance with ARM 24.5.343, but is entitled to reasonable costs.

Claimant's entitlement to attorney fees are set by the law in effect at the time of injury.

At the time of claimant's injury, attorney fees can not be awarded to a claimant unless there is a finding that the insurer acted unreasonably in denying benefits.

Having found that the termination of benefits was not unreasonable, no attorney fees can be awarded. Reasonable costs are awarded to claimant.

7. Defendant made reasonable inquiry into allegations contained in defendant's pleadings.

Although the evidence ultimately introduced raised credibility questions, defendant acted reasonably with the evidence it had in its possession.

8. Defendant is not entitled to reimbursements for benefits paid or attorney fees and costs from either the claimant or the employer. Montana law does not provide attorney fees and costs for insurers.

PROPOSED JUDGMENT

1. This Court has jurisdiction over this matter pursuant to section 39-71-2905, MCA.

2. A preponderance of the credible evidence supports the conclusion that claimant suffered an industrial injury on October 25, 1990, arising out of the course and scope of his employment with Stanford K. Stevens.

3. The Court cannot decide the issue of whether claimant has been working at his "job of injury" since his injury.

4. The evidence presented does not justify the termination of claimant's compensation benefits on April 22, 1993 and he is entitled to such benefits retroactive to the date of termination.
5. Claimant is not entitled to a 20 percent penalty for unreasonable refusal to provide benefits pursuant to section 39-71-2907, MCA.
6. Claimant is not entitled to attorney fees pursuant to section 39-71-611, MCA, in accordance with ARM 24.5.343, but is entitled to reasonable costs.
7. Defendant made reasonable inquiry into allegations contained in defendants pleadings.
8. Defendant is not entitled to reimbursements for benefits paid or attorney fees and costs from either the claimant or the employer.
9. Any party to this dispute may have 20 days in which to request a rehearing from these Findings of Fact and Conclusions of Law and Proposed Judgment.

DATED in Helena, Montana, this 3rd day of December, 1993.

(SEAL)

ROBERT J. CAMPBELL
Hearing Examiner

c: Mr. Michael G. Eiselein
Mr. Michael P. Heringer
Ms. Susan C. Witte
Mr. Ira D. Eakin
Submitted: November 16, 1993