IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2026 MTWCC 4

WCC No. SI-2026-0000007-WCD

JAMES J. DESROSIER

Petitioner

vs.

MONTANA MUNICIPAL INTERLOCAL AUTHORITY

Respondent/Insurer.

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Summary: The Respondent asserts that the Respondent is entitled to summary judgment for three independent reasons: the Petitioner failed to timely notify his employer of his alleged September 30, 2020, occupational disease claim as required by § 39-71-601(3), MCA; the Petitioner failed to timely file his Petition for Hearing within two years of the denial of his claim as required by § 39-71-2905(2), MCA; and there is no objective medical evidence that on a medically more probable than not basis, the Petitioner's employment was the major contributing cause of his alleged occupational disease. The Petitioner opposes the Respondent's motion asserting that: he had no reason to believe his disease could have been caused by his occupational exposure until 2023 and filed a FROI promptly (and timely) upon that discovery; the statute of limitations is either equitably tolled or the Respondent is equitably estopped from asserting it as a defense; and his medical expert's opinion supports the reasonableness of further investigation of causation.

Held: The Respondent is entitled to summary judgment. The Respondent has met its initial burden as to all three issues it raised: presentment, statute of limitations, and causation. Although the Petitioner has created a genuine issue of material fact as to the issue of presentment, he has not met his burden as to his entitlement to equitable relief from the statute of limitations, and causation.

¶ 1 The Respondent Montana Municipal Interlocal Authority (MMIA) asserts that it is entitled to summary judgment for three independent reasons: the Petitioner James J.

DesRosier failed to timely notify his employer of his alleged September 30, 2020, occupational disease claim as required by § 39-71-601(3), MCA; he failed to timely file his Petition for Hearing within two years of the denial of his claim as required by § 39-71-2905(2), MCA; and there is no objective medical evidence that on a medically more probable than not basis, his employment was the major contributing cause of his alleged occupational disease.

¶ 2 Mr. DesRosier opposes MMIA's motion, asserting that: he had no reason to believe his disease could have been caused by his occupational exposure until 2023 and filed a First Report of Injury (FROI) promptly (and timely) upon that discovery; the statute of limitations is either equitably tolled or MMIA is equitably estopped from asserting it as a defense; and his medical expert's opinion supports the reasonableness of further investigation of causation.

¶ 3 Neither party requested a hearing.

¶ 4 For the reasons that follow, this Court grants MMIA's Motion for Summary Judgment.

FACTS

¶ 5 These facts are undisputed for the purpose of this motion.

¶ 6 Beginning in March of 2018, Mr. DesRosier was working as a water treatment plant operator for the City of Chinook, Montana.

¶ 7 At all relevant times, the City of Chinook was insured by MMIA.

¶ 8 In the Fall of 2020, Mr. DesRosier was discovered to have an elevated white blood cell count through a routine health screening for work and was referred for further testing and evaluation.

¶ 9 On September 30, 2020, Martha T. Mapalo, MD, saw Mr. DesRosier at the Northern Montana Sletten Cancer Center. She performed a physical examination, reviewed lab work and imaging, and diagnosed Mr. DesRosier with Rai stage 0 chronic lymphocytic leukemia (CLL). The visit notes contain no discussion of the cause of Mr. DesRosier's medical condition.

¶ 10 On August 14, 2023, Mr. DesRosier filed a FROI. The report indicates that Mr. DesRosier was working for the City of Chinook, but it contains no accident description, date of injury, or body part.

¶ 11 Mr. DesRosier's attorney at the time informed MMIA that his claim was for leukemia as a result of chemical exposure.

¶ 12 In a letter dated September 13, 2023, MMIA denied liability for the claim, stating:

> MMIA has not received the requested documentation necessary to fully investigate your claim. . . . Because the necessary information has not been received, your claim is denied at this time. Please provide the requested information so it can be considered. Once received, your claim compensability will be re-evaluated.[1]

¶ 13 On October 25, 2023, MMIA's medical expert David J. Hewitt, MD, MPH, provided a record review and opined that Mr. DesRosier had CLL, stage 0, and that it was not claim related.

¶ 14 Dr. Hewitt explained that CLL is the most common type of leukemia in the United States, that the cause is unknown, that there are no clear occupational, environmental, or chemical exposure risk factors shown to be a cause, and that he was unable to reliably attribute Mr. DesRosier's CLL to his reported work at the water treatment plant or with any of the chemicals that he said he worked with.

¶ 15 Mr. DesRosier sought an opinion from Alan W. Thomas, MD, FACP. Dr. Thomas provided a letter in which he was unable to directly link Mr. DesRosier's reported exposure and his diagnosis of CLL, although he did state that Mr. DesRosier's report demonstrated exposure to a chemical which the EPA had determined to be a probable carcinogen.

¶ 16 In a letter dated November 15, 2023, MMIA denied liability for the claim again, stating, in pertinent part:

> The description of the exposure . . . indicates your symptoms occurred over a period of time.
>
> An occupational disease is defined as harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift. According to MCA 39-71-407(12), an insurer is liable for an occupational disease only if the occupational disease is established by objective medical findings and arises out of or is contracted in the course and scope of employment.
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> An occupational disease is considered to arise out of or be contracted in the course and scope of employment if the events occurring on more than a single day or work shift are the major contributing cause of the occupational disease in relation to other factors contributing to the occupational disease.

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[1] Resp't Mont. Municipal Interlocal Authority's (MMIA) Br. in Supp. of Mot. for Summ. J., Docket Item No. 5, Ex. 3 at 1.

> Your claim does not appear to meet the definition of an occupational disease as there is no medical opinion that on a medically more probable than not basis, your employment was the major contributing cause of your condition.[2]

¶ 17 On September 1, 2025, Mr. DesRosier filed a Petition for Workers' Compensation Mediation. The issue for mediation was his entitlement to the acceptance of his claim.

¶ 18 On October 23, 2025, the mediator filed her Mediation Report and Recommendation.

¶ 19 On October 31, 2025, MMIA replied to the Mediation Report and Recommendation.

¶ 20 On February 3, 2026, Mr. DesRosier filed his Petition for Hearing (Occupational Disease).

LAW AND ANALYSIS

¶ 21 Generally, the law in effect when a claimant files his claim, or on his last day of work, whichever is earlier, governs an occupational disease claim.[3] Here, Mr. DesRosier began working for the City of Chinook in March 2018 and filed his claim on August 14, 2023. It is unknown to this Court when or if he stopped working. Thus, it is not clear which version of the statute applies. However, if the earlier event was the filing of Mr. DesRosier's claim, the applicable year of the statute is 2021; if the earlier event was Mr. DesRosier's last day of work, the applicable year of the statute is between 2017 and 2021. And since the relevant law is the same for each of these years, determining which is the applicable year of the statute is unnecessary.

¶ 22 To prevail on a motion for summary judgment, the moving party must meet its initial burden of showing the "absence of a genuine issue of material fact and entitlement to judgment as a matter of law."[4] "[If] the moving party meets its initial burden to show the absence of a genuine issue of fact and entitlement to judgment, the burden shifts to the party opposing summary judgment either to show a triable issue of fact or to show why the undisputed facts do not entitle the moving party to judgment."[5]

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[2] MMIA's Br. in Supp. of Mot. for Summ. J., Docket Item No. 5, Ex. 6 at 1.

[3] *Hardgrove v. Transp. Ins. Co.*, 2004 MT 340, ¶ 2, 324 Mont. 238, 103 P.3d 999 (citation omitted); *Bouldin v. Liberty Nw. Ins. Corp.*, 1997 MTWCC 8. *But see Nelson v. Cenex, Inc.*, 2008 MT 108, ¶¶ 30, 33, 342 Mont. 371, 181 P.3d 619 (worker's later employment was irrelevant to his hazardous exposure and occupational disease, and the court therefore applied the Occupational Disease Act in effect on the date in which the period of employment which included his last injurious exposure ended).

[4] *Begger v. Mont. Health Network WC Ins. Trust*, 2019 MTWCC 7, ¶ 15 (citation omitted).

[5] *Richardson v. Indem. Ins. Co. of N. Am.*, 2018 MTWCC 16, ¶ 24 (alteration added) (citation omitted), *aff'd*, 2019 MT 160, 396 Mont. 325, 444 P.3d 1019.

A. Presentment under § 39-71-601(3), MCA

¶ 23 Section 39-71-601(3), MCA, states:

> When a claimant seeks benefits for an occupational disease, the claimant's claims for benefits must be in writing, signed by the claimant or the claimant's representative, and presented to the employer, the employer's insurer, or the department within 1 year from the date that the claimant knew or should have known that the claimant's condition resulted from an occupational disease.

¶ 24 This Court provides form Petitions for Hearing on its website to assist self-represented litigants. There is one form Petition for Hearing (Injury)[6] and one form Petition for Hearing (Occupational Disease).[7] Mr. DesRosier's Petition for Hearing is a form Petition for Hearing (Occupational Disease).[8] The first paragraph of that form states as follows:

> 1. That on _______, ____, Petitioner became aware of an occupational disease arising out of or contracted in the course and scope of Petitioner's employment with ______ in ______ County, Montana. Petitioner suffers from the following disease: __________________________ which originated through employment as follows: ____.[9]

¶ 25 Mr. DesRosier filled in the first two blanks of the form with the date, "September 30, 2020."[10] Accordingly, MMIA contends, pursuant to § 39-71-601(3), MCA, that Mr. DesRosier was required to present his claim for benefits by September 30, 2021. He filed his FROI with MMIA on August 14, 2023. Because, by his own admission, Mr. DesRosier knew he suffered from an occupational disease more than a year before he presented his claim, he appears to have presented his claim untimely.

¶ 26 However, Mr. DesRosier's Brief in Response to MMIA's Motion for Summary Judgment indicates that he made a mistake when filling out the date in his form Petition for Hearing (Occupational Disease). Within the body of his brief, Mr. DesRosier declared "under penalty of perjury" that he became aware of ***his disease, i.e., his diagnosis*** of

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[6] https://courts.mt.gov/external/wcc/forms/Petition_Injury.pdf

[7] https://courts.mt.gov/external/wcc/forms/Petition_OD.pdf

[8] Pet. for Hr'g (Occupational Disease), Docket Item No. 1.

[9] https://courts.mt.gov/external/wcc/forms/Petition_OD.pdf

[10] Pet. for Hr'g (Occupational Disease), Docket Item No. 1.

CLL, on September 30, 2020, but that he only became aware of its possible connection to his occupation in 2023 and promptly filed a FROI at that time.[11]

¶ 27 The Montana Supreme Court has "consistently held that, in opposing summary judgment, a party may not create genuine issues of material fact by contradicting his own sworn testimony."[12] However, given the indication that Mr. DesRosier made a mistake, and because this court must draw all reasonable inferences from the evidence in his favor when deciding whether MMIA is entitled to summary judgment,[13] Mr. DesRosier's declaration creates an issue of fact as to whether he presented his claim within 1 year from the date that he knew or should have known that his condition resulted from an occupational disease.[14]

B. Statute of Limitations under § 39-71-2905(2), MCA

¶ 28 Section 39-71-2905(2), MCA, states that "[a] petition for hearing before the workers' compensation judge must be filed within 2 years after benefits are denied." The statute of limitations is tolled during the pendency of the mandatory mediation proceeding,[15] which is calculated from the date the petition for mediation is filed "through the deadline for both parties to respond to the mediator's recommendation," which, under § 39-71-2411(7), MCA, is within 25 days following the mailing of the mediator's report and recommendation.[16]

¶ 29 MMIA's position is that Mr. DesRosier's Petition for Hearing was filed beyond the statute of limitations. This Court agrees.

¶ 30 MMIA denied liability for Mr. DesRosier's claim on September 13, 2023, and again on November 15, 2023. However, the September 13, 2023, denial letter "firmly established a denial of benefits and the existence of a 'dispute over liability,'" and,

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[11] Pet'r James J Desrosier (Desrosier) Resp. in Opp'n to Resp't's MMIA's Mot. for Summ. J., Docket Item No. 11 at 5.

[12] *Becker v. Rosebud Operating Servs., Inc.*, 2008 MT 285, ¶ 22, 345 Mont. 368, 191 P.3d 435 (citations omitted).

[13] *See Lorang v. Fortis Ins. Co.*, 2008 MT 252, ¶ 38, 345 Mont. 12, 192 P.3d 186 (stating, "In determining whether genuine issues of material fact exist, we must view all evidence in the light most favorable to the non-moving party. Therefore, all reasonable inferences that may be drawn from the evidence must be drawn in favor of the party opposing summary judgment." (citations omitted)).

[14] Were this Court not ultimately granting summary judgment for MMIA, it would request that Mr. DesRosier file an Amended Petition for Hearing (Occupational Disease) to correct the date he "became aware of an occupational disease arising out of or contracted in the course and scope of Petitioner's employment . . . ."

[15] *Preston v. Transp. Ins. Co.*, 2004 MT 339, ¶ 37, 324 Mont. 225, 102 P.3d 527.

[16] *Hardie v. Mont. State Fund*, 2012 MTWCC 2, ¶ 21.

therefore, triggered the "2-year statute of limitations" in § 39-71-2905(2), MCA.[17] Because the status of Mr. DesRosier's claim remained denied between the issuance of MMIA's letters, the second denial letter did not "reset" the statute of limitations.[18]

¶ 31 Mr. DesRosier filed his Petition for Mediation on September 1, 2025, at which time the statute of limitations began tolling. The mediator issued her Report and Recommendation on October 23, 2025. Twenty-five days from October 23, 2025, was November 17, 2025. Thus, the statute of limitations was tolled from September 1, 2025, through November 17, 2025, or for 78 days.

¶ 32 Calculating the statute of limitations period from MMIA's September 13, 2023, denial, Mr. DesRosier's Petition for Hearing was due two years and 78 days later, or Sunday November 30, 2025, which, by statute, means the next business day, Monday, December 1, 2025.[19] Mr. DesRosier did not file his Petition for Hearing until February 3, 2026, making it untimely.

¶ 33 Both because Mr. DesRosier appears not to dispute that he filed his Petition for Hearing beyond the statute of limitations, and because MMIA has met its burden on summary judgment as to that issue, the burden shifts to Mr. DesRosier to show, by more than denial, speculation,[20] and conclusory statements,[21] that there are disputed issues of material fact or that MMIA is not entitled to judgment as a matter of law.

¶ 34 Mr. DesRosier argues that he should be spared the bar of the statute of limitations on equitable grounds. In his Opposition Brief, he asserts:

> Additional factual disputes exist regarding Plaintiff's diligence and reasonable reliance on representations made during the administrative process. After obtaining Dr. Thomas's supporting letter, Plaintiff contacted MMIA and spoke with Lisa LeDoux to determine whether he remained within the allowable time to proceed. Ms. LeDoux informed Plaintiff that he still had time to move forward. In reliance on this representation, Plaintiff submitted Dr. Thomas's letter and other requested materials.
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> On August 12, 2025, MMIA issued a denial letter indicating that mediation was the next step. Plaintiff complied and participated in mediation in

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[17] *See Johnson v. Mont. State Fund*, 2011 MTWCC 22, ¶¶ 4, 21 (quoting *Boyd v. Zurich Am. Ins. Co.*, 2010 MT 52, ¶¶ 19-20, 355 Mont. 336, 227 P.3d 1026, *rev'd on other grounds in Ford v. Sentry Cas. Co.*, 2012 MT 156, 365 Mont. 405, 282 P.3d 687).

[18] *See Johnson*, 2011 MTWCC 22, ¶¶ 19-21.

[19] Workers' Compensation Court Rule 320(1)(a): "In computing the time for any response as provided for in these rules, the court includes weekends and holidays. If a party's deadline falls on a weekend or holiday, the party shall file by the next workday."

[20] *Williams v. Plum Creek Timber Co.,* 2011 MT 271, ¶ 14, 362 Mont. 368, 264 P.3d 1090 (citation omitted).

[21] *Farm Credit Bank of Spokane v. Hill,* 266 Mont. 258, 265, 879 P.2d 1158, 1162 (1993) (citation omitted).

> October 2025. After the mediation report was issued and Plaintiff declined the recommendation, he was informed that his next step was to file in Workers' Compensation Court.
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> Based on Ms. LeDoux's representations and the agency's continued processing of his claim, Plaintiff reasonably believed that any applicable deadline had been extended or remained open. At a minimum, these facts create a genuine issue as to equitable tolling and/or estoppel, precluding summary judgment.[22]

1. Equitable Tolling

¶ 35 "Equitable tolling allows in limited circumstances for an action to be pursued despite the failure to comply with relevant statutory filing deadlines."[23] The doctrine may be applied to toll the statute of limitations:

> . . . when a party reasonably and in good faith pursues one of several possible legal remedies and the claimant meets three criteria:
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> (1) timely notice to the defendant within the applicable statute of limitations in filing the first claim;
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> (2) lack of prejudice to [the] defendant in gathering evidence to defend against the second claim; and
>
> (3) good faith and reasonable conduct by the plaintiff in filing the second claim.[24]

The equitable tolling doctrine "has been applied only sparingly" and the Montana Supreme Court has "warn[ed] against application of it to 'what is at best a garden variety claim of excusable neglect.' "[25]

¶ 36 Here, Mr. DesRosier has not articulated, nor is it immediately clear, how equitable tolling would apply to the facts he asserts. He does not allege that he reasonably and in good faith pursued one of several possible legal remedies.[26] He asserts that he mediated his claim before filing his Petition for Hearing in this Court. But mediation is not one of several possible legal remedies, the choice of pursuing which caused him to miss the

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[22] Desrosier's Resp. in Opp'n to MMIA's Mot. for Summ. J., Docket Item No. 11 at 2.

[23] *Weidow v. Uninsured Emps'. Fund*, 2010 MT 292, ¶ 27, 359 Mont. 77, 246 P.3d 704 (quoting *Lozeau v. GEICO Indem. Co.*, 2009 MT 136, ¶ 14, 350 Mont. 320, 207 P.3d 316).

[24] *Lozeau*, ¶ 14 (citation omitted).

[25] *Weidow*, ¶ 28 (quoting *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96, 111 S.Ct. 453, 458 (1990)).

[26] An example of when the doctrine is correctly applied is in "a case in which a claimant initially filed her complaint in the wrong court when she was faced with a 'procedural quandary' as to whether a tribal court had jurisdiction.' " *Florences v. Morales & Uninsured Emps'. Fund*, 2011 MTWCC 5, ¶ 13 (citing *Weidow*, ¶¶ 25-26).

Workers' Compensation Act statute of limitations. It is a mandatory prerequisite under the Workers' Compensation Act to filing a Petition for Hearing in this Court.[27]

2. Equitable Estoppel

¶ 37 The "doctrine of equitable estoppel" is applied to "prevent an inequitable result."[28] A party must establish six elements before the doctrine can be invoked:[29]

1) the existence of conduct, acts, language, or silence amounting to a representation or concealment of material facts;
2) the party estopped must have knowledge of these facts at the time of the representation or concealment, or the circumstances must be such that knowledge is necessarily imputed to that party;
3) the truth concerning these facts must be unknown to the other party at the time it was acted upon;
4) the conduct must be done with the intention or expectation that it will be acted upon by the other party, or have occurred under circumstances showing it to be both natural and probable that it will be acted upon;
5) the conduct must be relied upon by the other party and lead that party to act; and
6) the other party must in fact act upon the conduct in such a manner as to change its position for the worse.[30]

¶ 38 Here, Mr. DesRosier alleges that at some point prior to mediation, he contacted MMIA and spoke with Lisa LeDoux, claims examiner, to determine whether he remained within the allowable time to proceed. She informed him that he still had time to move forward. In reliance on her representation, he submitted Dr. Thomas's letter and other requested materials to MMIA.

¶ 39 However, these asserted facts cannot establish a genuine issue of material fact as to whether estoppel applies, because they are not cited to an affidavit or other supportive document, and conclusory statements are insufficient to meet the non-moving party's burden on summary judgment.[31] "While we afford pro se litigants a certain degree of latitude in presenting their cases, 'that latitude cannot be so wide as to prejudice the other

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[27] § 39-71-2408(1), MCA: "Except as otherwise provided, in a dispute arising under this chapter, the insurer and claimant shall mediate any issue concerning benefits and the mediator shall issue a report following the mediation process recommending a solution to the dispute before either party may file a petition in the workers' compensation court."

[28] *Selley v. Liberty Nw. Ins. Corp.*, 2000 MT 76, ¶ 14, 299 Mont. 127, 998 P.2d 156.

[29] *Selley*, ¶ 10 (citation omitted).

[30] *Id*.

[31] *Farm Credit Bank of Spokane,* 266 Mont. at 265, 879 P.2d at 1162 (citation omitted).

party, and it is reasonable to expect all litigants, including those acting pro se, to adhere to procedural rules.' "[32]

¶ 40 Moreover, even if the facts asserted by Mr. DesRosier were properly supported, they allege a representation by Ms. LeDoux that was true when she made it. And no reasonable inference can be made that Mr. DesRosier relied on this pre-mediation statement that he still had time to move forward at least six months later when he filed his Petition for Hearing in this Court beyond the statute of limitations.

C. Burden of Proof – Objective Medical Evidence of Causation

¶ 41 Section 39-71-407(12), MCA, states:

An insurer is liable for an occupational disease only if the occupational disease:

(a) is established by objective medical findings; and

(b) arises out of or is contracted in the course and scope of employment. An occupational disease is considered to arise out of or be contracted in the course and scope of employment if the events occurring on more than a single day or work shift are the major contributing cause of the occupational disease in relation to other factors contributing to the occupational disease. . . .

Section 39-71-407(16), MCA, defines "major contributing cause" as "a cause that is the leading cause contributing to the result when compared to all other contributing causes." In *Grande v. Montana State Fund*, this Court ruled that for a condition to be compensable as an occupational disease, the worker's job duties need not be the only contributing factor but must be the cause that ranks first among all causes, including a pre-existing condition.[33] A worker is required to prove causation through medical expertise or opinion,[34] and the standard is by a preponderance of the evidence.[35]

¶ 42 MMIA argues that it has met its burden of proof on the issue of causation with the expert medical opinion of Dr. Hewitt, who was unable to reliably attribute Mr. DesRosier's CLL to his reported work at the water treatment plant or work with the various listed chemicals, and opined that the cause of CLL is unknown. MMIA argues that Mr. DesRosier cannot create a genuine issue of material fact because at most, his medical expert can establish the mere possibility or plausibility that his employment was the cause of his condition, neither of which is sufficient.

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[32] *Greenup v. Russell,* 2000 MT 154, ¶ 15, 300 Mont. 136, 3 P.3d 124 (citation omitted).

[33] 2011 MTWCC 15, ¶¶ 29-31, *aff'd,* 2012 MT 67, 364 Mont. 333, 274 P.3d 728.

[34] *Ford*, ¶¶ 44-49.

[35] *Grenz v. Fire & Cas. of Conn.*, 250 Mont. 373, 380, 820 P.2d 742, 746 (1991) (citation omitted).

¶ 43 Mr. DesRosier, on the other hand, argues that "[w]hile Dr. Thomas did not conclusively establish causation, he acknowledged Petitioner's exposure to chemicals recognized by the EPA as probable carcinogens, which supports the reasonableness of further investigation and raises factual questions regarding occupational contribution."[36] He further states that "[o]ccupational contribution has not been definitively excluded."[37] He also states: "Dr. Thomas . . . explained that carcinogenic chemicals may cause multiple types of cancer depending on factors such as exposure, dose, and duration, thereby supporting the plausibility of a causal relationship in Plaintiff's case. . . . These facts establish a genuine dispute regarding causation that cannot be resolved on summary judgment."[38]

¶ 44 MMIA has met its initial burden on causation. Thus, the burden shifts to Mr. DesRosier. Mr. DesRosier, however, is not able to create a dispute of material fact sufficient to withstand summary judgment on this issue. It does not matter that occupational causation has not been definitively excluded. Nor that further investigation that is not scheduled could possibly yield useful information. The time to investigate the factors that could impact a medical expert's opinion is before asking the medical expert for the opinion. Once the movant has filed a motion for summary judgment, the nonmovant has limited options as to how to proceed.[39]

¶ 45 To create a dispute of material fact sufficient to withstand MMIA's motion for summary judgment on the issue of causation, Mr. DesRosier would have to meet MMIA's expert opinion that his occupational chemical exposure was not the cause of his condition and that the cause is unknown, with medical expertise or opinion of his own that his occupational chemical exposure was the major contributing cause of his CLL. If he had done that, and he had withstood summary judgment on the other issues, the case would have gone to trial to determine the credibility of each side's experts. However, even allowing for semantic variations,[40] Dr. Thomas's opinion does not offer anything close to the opinion required to establish causation of an occupational disease. Rather, Dr. Thomas stated that he was unable to directly link Mr. DesRosier's reported exposure and his diagnosis of CLL and opined only that Mr. DesRosier's "report does demonstrate exposure to a chemical determined to be a probable carcinogen by the EPA."[41]

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[36] Desrosier's Resp. in Opp'n to MMIA's Mot. for Summ. J., Docket Item No. 11 at 4.

[37] *Id.* at 8.

[38] *Id.* at 2.

[39] While Workers' Compensation Court Rule 329(8) outlines one way to proceed, that is not the route Mr. DesRosier took in this matter.

[40] *See Ford*, ¶ 42 ("[T]he probative force of [a medical opinion] 'is not to be defeated by semantics if it is reasonably apparent that the doctor intends to signify a probability supported by some rational basis.' " (citation omitted)).

[41] MMIA's Brief in Supp. of Mot. for Summ. J., Docket Item No. 5, Ex. 5 at 1.

¶ 46 Since Mr. DesRosier has not put forth medical expertise or opinion that his workplace chemical exposure was the major contributing cause of his CLL, he cannot meet his burden to prove the essential element of causation of an occupational disease.

¶ 47 In sum, MMIA is entitled to summary judgment on two independent grounds, that: Mr. DesRosier failed to timely file his Petition for Hearing within two years of the denial of his claim as required by § 39-71-2905(2), MCA; and there is no objective medical evidence that on a medically more probable than not basis, his employment was the major contributing cause of his alleged occupational disease.

¶ 48 Accordingly, this Court enters the following:

ORDER

¶ 49 MMIA's Motion for Summary Judgment is **granted**.

¶ 50 Pursuant to Workers' Compensation Court Rule 348(2), this Order is certified as final and, for purposes of appeal, shall be considered as a notice of entry of judgment.

DATED this 3rd day of June, 2026.

(SEAL)

/s/ Lee Bruner
Judge Lee Bruner

c: James J. DesRosier
Morgan M. Weber

Submitted: May 4, 2026