

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 40

WCC No. 9610-7631

UNA (VANHORN) KILLION

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

and the STATE OF MONTANA

Respondents.

ORDER DENYING MOTION TO COMPEL DISCOVERY

AND REQUEST FOR TELEPHONE HEARING

Summary: Petitioner seeks an order compelling respondent to answer interrogatories.

Held: Motion to compel denied where interrogatories are largely duplicative of earlier interrogatories which respondent answered, or plainly go beyond information relevant to claimant's constitutional challenge to provision that death benefits payable to a widow cease upon remarriage.

Topics:

Discovery: Compelling Discovery. Motion to compel denied where interrogatories are largely duplicative of earlier interrogatories which respondent answered, or plainly go beyond information relevant to claimant's constitutional challenge to provision that death benefits payable to a widow cease upon remarriage.

Discovery: Interrogatories. Motion to compel denied where interrogatories are largely duplicative of earlier interrogatories which respondent answered, or plainly go beyond information relevant to claimant's constitutional challenge to provision that death benefits payable to a widow cease upon remarriage.

¶1 The petitioner in this matter seeks an order compelling the respondent to answer interrogatories propounded on April 23, 1998. She requests a telephone conference with the Court so it can promptly resolve the motion. Trial is presently scheduled for the week of June 8, 1998.

¶12 Petitioner in this case is challenging the constitutionality of statutory death benefit provisions which provide that death benefits payable to a widow or widower cease upon remarriage. The interrogatories propounded by petitioner are largely duplicative of interrogatories propounded earlier and answered by the respondent, or involve matters that plainly go beyond information which is relevant to the constitutional challenge. The Court has reviewed respondent's answers to the prior interrogatories and they are plainly sufficient. The discovery sought by petitioner is an abuse of the discovery process. A telephone conference would not aid the Court in disposing of the motion.

¶13 The motion to compel and request for conference call are **denied**.

DATED in Helena, Montana, this 13th day of May, 1998.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Turner C. Graybill

Mr. Thomas E. Martello

Submitted: May 6, 1998