IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 9603-7515

PHIL WALLING

Petitioner

vs.

ARGONAUT INSURANCE

Respondent/Insurer for

U.S. PIPELINE

Employer.

ORDER VACATING TRIAL

Before the Court Is Respondent's Motion for Continuance of Trial. The motion is based on petitioner's failure to answer interrogatories and respond to requests for production until more than 60 days after they were served on petitioner by respondent. The discovery was served March 29, 1996. On May 17, 1996, respondent's counsel wrote to petitioner's counsel reminding him of the outstanding discovery and asking that it be provided. Finally, on June 5, 1996, at the time of petitioner's deposition, responses were provided. Even then, the petitioner's response to the requests for production were in the form of releases allowing respondent to obtain the information directly.

Since this matter is set for trial in Great Falls during the week of June 24, 1996, the Court invited an expedited response by petitioner. That response was faxed to the Court today. In it petitioner does not dispute the fact that he was late in serving responses but argues that the requested information is irrelevant and that the trial should therefore be held as scheduled.

The petitioner's position is without merit. If the requested information was irrelevant then petitioner should have filed timely responses objecting to the discovery as irrelevant. ARM 24.5.323(4) and 24.5.324(3). The petitioner cannot ignore or stonewall discovery and then insist on keeping his trial date.

The trial setting in this matter is vacated. Trial will be reset for the week of October 7, 1996 in Great Falls. A new scheduling order will follow.

SO ORDERED.

Dated in Helena, Montana, this 12th day of June, 1996.

(SEAL)

/s/ Mike McCarter
JUDGE

c: Mr. Torger S. Oaas
Mr. Kelly M. Wills
Submitted: June 12, 1996