

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1994 MTWCC 24A

WCC No. 9308-6872

STEVEN K. YAGER

Petitioner

vs.

MONTANA SCHOOLS GROUP INSURANCE/

ALEXSIS RISK MANAGEMENT SERVICE

Respondents/Insurers for

LIVINGSTON SCHOOL DISTRICT NOS. 4 AND 1

Employer.

SUPPLEMENTAL ORDER ON MOTION TO COMPEL

On the same day that it issued its Order on Motion to Compel the Court received Claimant's Response to Defendant's Surreply Brief. In that response, the claimant contends that both investigative reports should be produced since they were used to refresh Karen Wile's recollection prior to her deposition. He cites Rule 612 Mont.R.Evid. as authority. Rule 612 permits "the court in its discretion" and "in the interest of justice" to order disclosure of a writing used to refresh a witness' recollection before testifying. That authority extends only to "those portions which relate to the testimony of the witness." The Court has not yet been furnished with a deposition of Ms. Wiles testimony and is unable to determine whether any of Mr. Dunbar's report should be disclosed.

IT IS THEREFORE ORDERED, that on or before March 28, 1994, claimant furnish the Court with a copy of Ms. Wiles deposition and specifically identify those portions of her testimony to which he believes the investigative reports may be relevant and state why the reports are relevant. The respondent shall then have ten (10) days in which to respond.

DATED in Helena, Montana, this 14th day of March, 1994.

(SEAL)

/s/ Mike McCarter
JUDGE

c: Mr. Tom L. Lewis

Mr. David J. Slovak (Courtesy Copy)

Mr. Oliver H. Goe