

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2010 MTWCC 43

WCC No. 2009-2346

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ALLISON CHAPMAN

Petitioner

vs.

TWIN CITY FIRE INS. CO.

Respondent/Insurer.

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ORDER DENYING PETITIONER'S MOTIONS FOR CLARIFICATION  
AND NEW HEARING

**Summary:** Petitioner has filed a "Motion for Clarification" and a "Motion for New Hearing." The motion for clarification was submitted on December 28, 2010. The motion for new hearing is not fully briefed. On December 29, 2010, Petitioner filed a Notice of Appeal.

**Held:** The Court lacks jurisdiction to consider the merits of the motions because jurisdiction over the case passed to the Montana Supreme Court when Petitioner filed her Notice of Appeal. Accordingly, the motions are denied.

**Topics:**

**Jurisdiction: Workers' Compensation Court.** Petitioner filed two post-trial motions. One was deemed submitted when the time for a reply brief had expired, and the other was not yet fully briefed when Petitioner filed a Notice of Appeal asserting that she had appealed this case to the Montana Supreme Court. Filing this notice caused jurisdiction to pass from this Court to the Montana Supreme Court. Therefore, this Court no longer has jurisdiction to consider the merits of Petitioner's pending motions.

¶ 1 Petitioner Allison Chapman moves this Court for clarification of its findings of fact, conclusions of law, and judgment<sup>1</sup> regarding her claim.<sup>2</sup> Chapman also moves the Court for a new hearing.<sup>3</sup>

¶ 2 Chapman's motion for clarification was deemed submitted for consideration on December 28, 2010, when her time for filing a reply brief under ARM 24.5.316 expired. Chapman's motion for a new hearing is not yet fully submitted. However, on December 29, 2010, Chapman filed a Notice of Appeal, asserting that she has appealed this case to the Montana Supreme Court.<sup>4</sup>

¶ 3 When notice of appeal has been filed, jurisdiction passes from this Court and vests in the Montana Supreme Court.<sup>5</sup> Since Chapman has filed a notice of appeal, this Court no longer retains the jurisdiction to consider her pending post-trial motions. Although Chapman's motion for a new hearing is not fully briefed, any further briefing would be futile in light of the Court's loss of jurisdiction to consider the merits of the motion. I therefore deem the motion submitted for decision. The pending motions are denied on jurisdictional grounds.

#### ORDER

¶ 4 Petitioner's motion for clarification is **DENIED**.

¶ 5 Petitioner's motion for new hearing is **DENIED**.

DATED in Helena, Montana, this 30th day of December, 2010.

(SEAL)

/s/ JAMES JEREMIAH SHEA  
JUDGE

c: Allison Chapman  
William O. Bronson  
Submitted: December 28 and 29, 2010

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<sup>1</sup> *Chapman v. Twin City Fire Ins. Co.*, 2010 MTWCC 30.

<sup>2</sup> Petitioner's Motion for Clarification, Docket Item No. 91.

<sup>3</sup> Petitioner's Motion for New Hearing, Docket Item No. 94.

<sup>4</sup> Notice of Appeal, Docket Item No. 97.

<sup>5</sup> *Powder River County v. State*, 2002 MT 259, ¶ 27, 312 Mont. 198, 60 P.3d 357 (citing *Powers Mfg. Co. v. Leon Jacobs Enter.*, 216 Mont. 407, 411-12, 701 P.2d 1377, 1380 (1985)).