

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2012 MTWCC 12

WCC No. 2012-2892

IN THE MATTER OF DOROTHY CISSELL

Petitioner

vs.

EMPLOYERS COMPENSATION INSURANCE COMPANY, BRENTWOOD
SERVICES, TWIN CITY FIRE INS CO, AND JOHN DOES A, B AND C

Respondents.

ORDER RESOLVING EMPLOYERS COMPENSATION INSURANCE COMPANY'S
MOTION FOR MORE DEFINITE STATEMENT

Summary: One of the named respondents moved for a more definite statement, arguing that, from Petitioner's Petition for Hearing, it could not discern the roles nor potential liability of the other respondents, nor could it avail itself of the defenses otherwise available to it because Petitioner's prayer for relief did not set forth her claims with sufficient specificity.

Held: Only Employers Compensation Insurance Company is properly before this Court as a respondent in this case and Petitioner shall amend her petition accordingly. Petitioner provided additional contentions in her response to this motion which shall also be incorporated into her amended petition. Although Respondent further alleges that Petitioner did not comply with ARM 24.5.301 in her Petition for Hearing, Respondent has not set forth with any specificity the nature of Petitioner's alleged non-compliance. The Court concludes Petitioner has otherwise satisfied the requirements of notice pleading and the additional information Respondent seeks is best obtained through discovery.

Topics:

Pleading: More Definite Statement. In response to the insurer's motion for a more definite statement alleging the petition is vague, Petitioner points out that this Court requires only notice pleading. Since it appears Petitioner has provided sufficient information to meet this requirement, the

additional information the insurer seeks is better left to the discovery process.

Constitutions, Statutes, Regulations, and Rules: Administrative Rules of Montana: 24.5.301. The Petitioner named Brentwood Services as a Respondent. Brentwood adjusted Petitioner's claim on behalf of the insurer as a third-party administrator (TPA). As this Court has previously held, a TPA will not be named in the caption of a workers' compensation case as a matter of course, absent a compelling reason for doing so.

Insurers: Third Party Claims Administrators. The Petitioner named Brentwood Services as a Respondent. Brentwood adjusted Petitioner's claim on behalf of the insurer as a third-party administrator (TPA). As this Court has previously held, a TPA will not be named in the caption of a workers' compensation case as a matter of course, absent a compelling reason for doing so. In the present case, no compelling reason for Brentwood Services' inclusion in the caption is before the Court.

Constitutions, Statutes, Regulations, and Rules: Administrative Rules of Montana: 24.5.301. There is an agency relationship between the insurer and the TPA, and any rights and liabilities within the authority of the TPA accrue to the insurer as the principal, including those John Does named by Petitioner who worked on her claim. Since the insurer is already properly named as a respondent, there is no reason to name such entities or persons as parties in addition to the insurer. Petitioner shall file an amended petition to reflect the insurer as the only respondent.

Insurers: Third Party Claims Administrators. There is an agency relationship between the insurer and the TPA, and any rights and liabilities within the authority of the TPA accrue to the insurer as the principal, including those John Does named by Petitioner who worked on her claim. Since the insurer is already properly named as a respondent, there is no reason to name such entities or persons as parties in addition to the insurer. Petitioner shall file an amended petition to reflect the insurer as the only respondent.

Agency: Actual. There is an agency relationship between the insurer and the TPA, and any rights and liabilities within the authority of the TPA accrue to the insurer as the principal, including those John Does named

by Petitioner who worked on her claim. Since the insurer is already properly named as a respondent, there is no reason to name such entities or persons as parties in addition to the insurer. Petitioner shall file an amended petition to reflect the insurer as the only respondent.

¶ 1 Respondent Employers Compensation Insurance Company (Employers) moved for a more definite statement regarding Petitioner Dorothy Cissell's claims in this matter.¹ Employers explains that while Cissell names Twin City Fire Ins Co (Twin City) and several "John Doe" respondents in the caption of her Petition for Hearing,² Cissell sets forth no contentions relating to these entities. Employers argues that it cannot fully ascertain what rights and defenses may be available to it since it does not know what liability may rest with these other entities. Employers also notes that Brentwood Services adjusted Cissell's claims on Employers' behalf.

¶ 2 Employers argues that Cissell's prayer for relief is vague and that it cannot analyze what rights and defenses it may have concerning Cissell's claims. Employers notes that in at least one previous instance, this Court has ordered a party to provide a more definite statement where the Court determined that the party failed to specify the nature of the benefits he sought.³

¶ 3 Finally, Employers contends, "The rule governing a petition needs to be borne in mind as well. ARM 24.5.301 requires certain specifics which are lacking."⁴ Employers' argument, however, lacks any specifics as to which parts of ARM 24.5.301 it believes Cissell has failed to comply with and therefore will not be addressed further in this Order.

¶ 4 In response to Employers' motion, Cissell states that she is willing to provide any information regarding the two workers' compensation claims at issue that Employers desires. Cissell notes, however, that the parties have mediated these issues and that she has provided Employers with access to all her relevant medical records, so she believes Employers already possesses this information. Cissell further provides in her

¹ Motion for More Definite Statement, Docket Item No. 5.

² See Docket Item No. 1.

³ *Lewis v. State Compen. Ins. Fund*, 1997 MTWCC 53.

⁴ Motion for More Definite Statement at 2.

response several pages of additional contentions regarding her claims, as well as attached exhibits.⁵

¶ 5 Employers has indicated that it considers the information provided in Cissell's response to be inadequate to satisfy its motion for a more definite statement.⁶ However, as Cissell counters in her response, this Court requires only notice pleading.⁷ It appears that Cissell has provided information sufficient to meet this requirement and the additional information Employers seeks is best sought through the discovery process.

¶ 6 Employers' argument regarding the additional respondents named in the caption of Cissell's petition is well-taken. Regarding Brentwood Services, which adjusted Cissell's claim on behalf of Employers, as this Court has previously held, a third-party administrator (TPA) will not be named in the caption of a workers' compensation case as a matter of course, absent a compelling reason for doing so.⁸ In the present case, no compelling reason for Brentwood Services' inclusion in the caption is before the Court.

¶ 7 Twin City has not been served in this case. Cissell neither requested service upon this entity when she filed her Petition for Hearing nor did she serve her response to this motion upon Twin City. There is no evidence before the Court to indicate that Twin City is a proper party. Absent such evidence, Twin City should be dismissed as a party.

¶ 8 Cissell has named three "John Doe" respondents, which she contends are "unknown entities or persons working on these claims."⁹ An insurer who retains a TPA to adjust a workers' compensation claim enters into an agency relationship with the TPA and any rights and liabilities which accrue within the limits of the TPA's authority accrue to the insurer as the principal.¹⁰ As it pertains to the John Does named by Cissell, the rights and liabilities of any "entities or persons working on" Cissell's claims on behalf of Employers accrue to Employers. Since Employers is already properly named as a

⁵ Petitioner's Response to Respondents' Motion for More Definite Statement, Docket Item No. 6.

⁶ Notice of Submittal, Docket Item No. 8.

⁷ See *Oster v. State Compen. Ins. Fund*, 1995 MTWCC 85.

⁸ *Ivie v. MUS Self Funded Workers' Compen. Program*, 2010 MTWCC 15, ¶ 7.

⁹ Petition for Hearing, ¶ 3.

¹⁰ See, e.g., *Zahn v. Town Pump, Inc.*, 2006 MTWCC 30, ¶ 17.

respondent in this matter, there is no reason to name such entities or persons as parties in addition to Employers.

¶ 9 Therefore, Cissell shall file an amended petition in this Court, amending the caption to reflect Employers as the sole respondent. Furthermore, Cissell shall incorporate the additional contentions set forth in her response to Employers' motion into the amended petition.

¶ 10 Cissell has 10 days from the date of this Order in which to file an amended petition consistent with this ruling.

SO ORDERED.

DATED in Helena, Montana, this 18th day of April, 2012.

(SEAL

/s/ JAMES JEREMIAH SHEA
JUDGE

c: Tracey L. Morin
Charles G. Adams
Submitted: April 10, 2012