

WORKERS' COMPENSATION COURT

Hearing No. 3354
Volume XVI

Helena, Montana
August 28, 2003

ROBERT CHEETHAM, JR.

David W. Lauridsen

vs.

LIBERTY NORTHWEST
INSURANCE CORPORATION

Larry W. Jones

WCC No. 2003-0729

The status conference in the above-entitled matter came on Thursday, August 28, 2003, at 1:40 p.m., in the Workers' Compensation Court, Helena, Montana. The Honorable Mike McCarter, Judge of the Workers' Compensation Court, presided. Petitioner, Robert Cheetham, was represented by Mr. David W. Lauridsen. Respondent was represented by Mr. Larry W. Jones. Other interested parties appearing were Mr. Thomas E. Martello, Mr. Thomas J. Murphy, Mr. James G. Hunt, and Mr. Geoffrey C. Angel. Ms. Carol Gleed appeared on behalf of the Department of Labor and Industry. The court reporter in this matter was Ms. Laurie Crutcher.

Mr. Jones explained that Liberty's software system does not have a field that captures or reflects social security offsets. The Court suggested looking for a rate reduction or change in the rate. Mr. Martello remembered that in *Broeker* an adjustment was made for the parameters for the rate change. Mr. Martello will check with his IT people and advise the Court and the parties how the search was conducted.

Mr. Lauridsen agreed not to claim prospective fees.

The parties shall file a status report in four weeks which shall include: (1) stipulated facts for resolution of the *Chevron Oil* argument and other issues relating to common fund and retroactivity (not relating to affirmative defenses that may be raised, such as statute of limitations, res judicata, etc.); (2) suggested briefing schedule; and (3) possible stipulation to date on which application of decisions becomes prospective, relating to requested stay relating to retroactive application.

A transcript of the conference is being prepared and will be posted on the Court's WEB page. The transcript shall be controlling if the Court's recollection as reflected in these minutes is inconsistent with it.

Court adjourned at 1:55 p.m.

MIKE McCARTER
Judge