

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ROBERT FLYNN,

Petitioner,

WCC No. 2000-0222

vs.

STATE COMPENSATION INSURANCE FUND,

Respondent/Insurer for

SALISH KOOTENAI COLLEGE,

Employer.

FILED
NOV - 2 2000
OFFICE OF
WORKERS' COMPENSATION JUDGES
HELENA, MONTANA

SCHEDULING ORDER

You are hereby given notice that a **PETITION FOR HEARING** has been filed in the Workers' Compensation Court.

THE PARTIES SHALL ADHERE TO THE FOLLOWING DEADLINES.

- 1) **RESPONSE:** Respondent shall serve the Court and the petitioner with a **Response to the Petition within 20 days** of service of this Order. ARM 24.5.302.
- 2) **WRITTEN DISCOVERY:** All written discovery must be served on or before December 1, 2000.
- 3) **IDENTIFICATION OF WITNESSES:** On or before December 8, 2000, the parties shall exchange a list of:
 - a) the names of all witnesses, including expert witnesses, not already identified in the pleadings, along with a summary of the subject matter of their testimony;
 - b) the names of all expert witnesses, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each of the expert's opinions; and
- 4) **LISTING AND EXCHANGE OF EXHIBITS:** On or before December 8, 2000, the parties shall exchange:
 - a) all proposed exhibits, including medical records, which have not been previously provided to the opposing party; and

b) a list of all proposed exhibits which have been previously exchanged or which are known to be in the possession of the opposing party, identifying the exhibit by date, author and number of pages. Generic identification, such as "all vocational records" **is insufficient**.

Witness and exhibit lists may not be supplemented except as to witnesses and exhibits identified for the first time after the exchange date as a result of the exchange or discovery, and which could not have been identified earlier through reasonable diligence. Any supplementation shall be exchanged no later than the deadline for the attorneys' conference. **Do not mail the exhibits to the Court.**

5) **MEDICAL RECORDS:** As set forth in ARM 24.5.317, written objections to medical records must be served identifying the medical record and basis of objection on or before December 18, 2000.

6) **PRETRIAL MOTIONS:** All motions to dismiss, to amend pleadings, and for summary ruling must be filed with supporting briefs on or before December 8, 2000. Unless otherwise provided by the rules of the Court, all other pretrial motions, including motions in limine, must be **RECEIVED**, with briefs, by the Court on January 4, 2001.

7) **ATTORNEYS' CONFERENCE:** At least one week prior to the pretrial conference the attorney(s) and any party who is representing herself/himself shall meet or confer by telephone to discuss and determine the contents of the pretrial order. At this conference any party who intends to file a trial memoranda or brief must notify the other party of that intent.

8) **PRETRIAL CONFERENCE:** **The Pretrial Order shall be prepared by the Petitioner.** The pretrial conference is scheduled for the week of January 8, 2001, in Missoula, Montana. At the pretrial conference the parties must:

a) File the **Final Pretrial Order** in the form set forth in ARM 24.5.318 (5). In the event of a dispute as to the content of the Final Pretrial Order, the dispute shall be presented at the pretrial conference for resolution.

b) List and file all proposed exhibits **with the hearing examiner at the time of the pretrial conference**. The list shall clearly set forth all objections a party may have to any proposed exhibit. Numbers shall be used to mark exhibits and all pages within an exhibit shall be numbered sequentially. Medical records shall be set forth in a single exhibit.

c) It is the responsibility of the **petitioner** to prepare the final exhibit packet. **PRIOR** to the pretrial conference, the **respondent** must provide the **petitioner** with sufficient copies for all parties of every exhibit it intends to offer for admission. These exhibits must be separated and the pages within the exhibit must be numbered. The petitioner will then identify the exhibit by number when

preparing the PRETRIAL ORDER. At the time of the pretrial conference, there **must** be conformed copies of the exhibit notebook for all parties and the Court.

- 9) DEPOSITIONS: All depositions must be filed no later than January 11, 2001.
- 10) TRIAL DATE: The trial of this matter is set for the week of January 15, 2001, in Missoula, Montana.

NOTICE: The public facilities the Court uses for trials comply with the provisions of the Americans with Disabilities Act. Persons with disabilities requiring special accommodations should contact the Court one week prior to the pretrial hearing.

11) PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OR TRIAL BRIEF: If the parties intend to submit proposed findings of fact and conclusions of law ("proposed findings") or a trial brief, they must do so by the Thursday preceding the trial week. (Submission by FAX is acceptable.) Submission of the proposed findings is not mandatory. However, failure to submit pretrial proposed findings will not be cause for the Court to defer a bench ruling, if appropriate, or for it to delay submission of the case for decision. Post-trial proposed findings will not be routinely allowed.

12) SETTLEMENT CONFERENCE: The parties are urged to engage in settlement discussions. If any party believes that settlement negotiations would be facilitated by a settlement conference as provided in ARM 24.5.334, that party may request the Court to order a settlement conference.

13) HEARING EXAMINER: Pursuant to prior Order of the Court, Jay Dufrechou shall act as hearing examiner to conduct the pretrial conference and to issue orders concerning pretrial discovery, scheduling, procedural and similar matters and disputes.

This schedule may be modified upon approval of the Court and written confirmation by a party. **Failure to file the Final Pretrial Order may result in the trial being vacated.** The Court will consider the imposition of sanctions on any party who fails to cooperate.

DATED in Helena, Montana, this 2nd day of November, 2000.

(SEAL)

PATRICIA J. KESSNER
Clerk of Court

By: Clara Wilson
Deputy Clerk of Court