

FILED

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OFFICE OF
 WORKER'S COMPENSATION JUDGE
 HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CATHERINE E. SATTERLEE, et al.)	WCC No. 2003-0840
)	
Petitioners,)	
)	
vs.)	LIBERTY'S OBJECTION TO
)	PETITIONERS' MOTION FOR
LIBERTY MUTUAL CASUALTY COMPANY,)	RECONSIDERATION
et al.)	
)	
Respondent/Insurers.)	

Petitioners have filed a Motion for Reconsideration. There is but one ground for reconsideration they raise, which is they claim additional discovery is required to show that a ruling in their favor would not bankrupt the Workers' Compensation generally, and the State Fund specifically.

The Motion is governed by ARM 24.5.337, but the rule does not set forth what are appropriate grounds for reconsideration.

But in Bauer v. CNA Commercial Insurance, 2002 MTWCC 2(A), Order Denying Motion for Reconsideration, filed February 8, 2002, this Court, at ¶3, noted the losing party had submitted an affidavit as part of the Motion to Reconsideration. The Court summarily dismissed the Motion to Reconsider thusly "That Affidavit sets forth additional facts concerning the settlement and Petitioner argues that those facts require reconsideration. This Court has previously held that a party cannot hold back evidence in the face of a Motion and then request reconsideration based on a subsequent tender of the evidence. Wiard v. Liberty Northwest, 2001 MTWCC 31(A), ¶2. Petitioner has offered no evidence that the additional facts set out in the Affidavit were unknown to him, and could not have been submitted before. The Court will not consider the additional facts."

In Wiard v. Liberty Northwest, 2001 MTWCC 31(A), ORDER DENYING MOTION FOR RECONSIDERATION filed July 20, 2001 the Court granted summary judgment in favor of Liberty Northwest. At ¶5 the Court held “A party cannot hold back evidence from responding to a summary judgment motion and then seek reconsideration after an adverse ruling.”

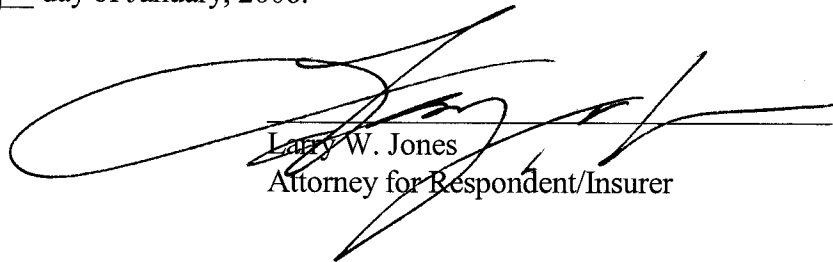
Based on this Court’s ruling in Wiard alone, the Motion for Reconsideration should be summarily dismissed.

Additionally, the State Fund has filed its STATE FUND’S Opposition to Petitioners’ Motion for Reconsideration.

Liberty has reviewed the Motion and incorporates it by reference herein.

For the reasons stated above, Liberty requests Petitioners’ Motion for Reconsideration be denied.

DATED this 11 day of January, 2006.



Larry W. Jones
Attorney for Respondent/Insurer

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January, 2006, I served the original of the foregoing LIBERTY'S OBJECTION TO PETITIONERS' MOTION FOR RECONSIDERATION, first-class mail, postage prepaid, on the following:

Ms. Patricia J. Kessner
Clerk of Court
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624-0537


and copies of the same to the following:

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Clara

Workers' Compensation Court

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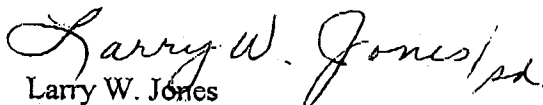
Helena, MT 59624-0537

RE: Catherine E. Satterlee WCC No. 2003-0840

Dear Clara:

Please find attached a new first page to replace the one mistakenly sent you in the captioned Liberty's Objection to Petitioners' Motion for Reconsideration. Please exchange the pages presented for filing.

Very truly yours,


Larry W. Jones

LWJ/ssd

Attachment

cc: James G. Hunt (with enclosure)
Thomas J. Murphy (with enclosure)
Anthony Johnstone (with enclosure)
David Hawkins (with enclosure)
