

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 04-797

**FILED**

JAN - 6 2005

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

ORDER

MONTANA STATE FUND,

Petitioner,

v.

WORKERS' COMPENSATION COURT OF THE  
STATE OF MONTANA, HONORABLE MIKE  
McCARTER, WORKERS' COMPENSATION  
COURT JUDGE,

Respondent,

and

ROBERT FLYNN and CARL MILLER, Individually  
and on Behalf of Others Similarly Situated,

Claimants,

and

LIBERTY NORTHWEST INSURANCE  
CORPORATION,

Intervenor.

**FILED**

JAN 0 4 2005

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

The Montana State Fund petitioned, at the direction of the Workers' Compensation Court, for a writ of supervisory control from this Court for the purpose of determining if an order of the Workers' Compensation Court in Cause Nos. WCC No. 2000-0222 and WCC No. 2003-0771 is correct. In general, the subject order requires the State Fund to disclose to the attorney for the claimants confidential information concerning other claimants before the Workers' Compensation Court who may be entitled to additional benefits as a result of our prior decisions in this matter.

We have received responses from counsel for Mr. Flynn and Mr. Miller and counsel for Liberty Northwest Insurance Corporation. Both concur that the order of the Workers' Compensation Court is an appropriate way to proceed.

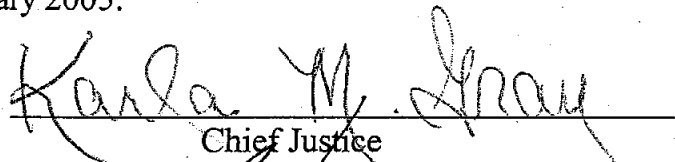
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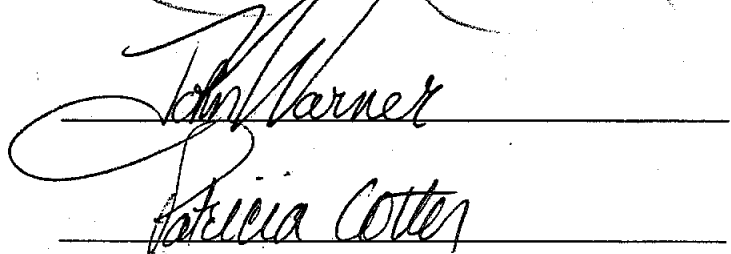
Supervisory control is an extraordinary remedy. Rule 17 M.R.Civ.P. We assume supervisory control over an inferior Court when it is acting under a mistake of law which is causing significant injustice, and where the remedy by appeal is inadequate. Determining whether supervisory control is appropriate is a case-by-case decision. We base our decision on the presence of extraordinary circumstances and a particular need to prevent an injustice from occurring. *Demontiney v. Twelfth Judicial District Court*, 2002 MT 161, ¶ 10, 310 Mont. 406, ¶ 10, 51 P.3d 1267, ¶ 10; *Park v. Sixth Judicial Dist. Court*, 1998 MT 164, ¶ 13, 289 Mont. 367, ¶ 13, 961 P.2d 1267, ¶ 13. In this instance there is no indication, or even an allegation, that the Workers Compensation Court is acting under a mistake of law which is causing significant injustice. A writ of supervisory control directed to the Workers' Compensation Court is therefore unnecessary.


NOW, THEREFORE, IT IS ORDERED as follows:

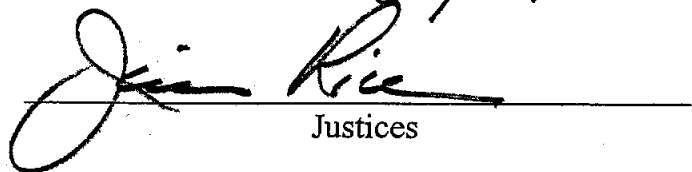
1. The petition of the Montana State Fund for a writ of supervisory control is DENIED.
2. The Clerk of this Court shall mail a copy of this order to the Workers' Compensation Court and all counsel of record.

DATED this 4<sup>th</sup> day of January 2005.

  
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Chief Justice

  
\_\_\_\_\_  
Patricia Cotter

  
\_\_\_\_\_

  
\_\_\_\_\_  
Justices

OFFICE OF  
WORKERS COMPENSATION JUDGE  
HELENA, MONTANA

JAN - 6 2005

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