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FILED

AUG 11 2006

OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA
WCC No. 2003-0840

CATHERINE E. SATTERLEE,
Petitioner,

vs.

LUMBERMAN'S MUTUAL CASUALTY
COMPANY

Respondent/Insurer for

BUTTREY FOODS & DRUG
Employer.

WC Claim No. 788CU041791

JAMES ZENAHLIK,
Petitioner,

vs.

MONTANA STATE FUND,
Respondent/Insurer for

EAGLE ELECTRIC,
Employer.

WC Claim No.: 03-1997-06362-9

JOSEPH FOSTER,
Petitioner,

vs.

MONANA STATE FUND,
Respondent/Insurer for

ALLEN ELECTRIC,
Employer.

WC Claim No. 3-95-17425-3

DECKET ITEM NO. 331

LIBERTY'S BRIEF IN OPPOSITION TO DISCOVERY

Satterlee has filed her Motion and Brief for an Order Allowing Discovery which Liberty opposes.

This Court in its ORDER GRANTING PETITIONER'S MOTION FOR RECONSIDERATION in the instant case at paragraph 9 held as follows: "The fundamental crux of the Court's opinion denying the Petitioners' Motion for Summary Judgment was not grounded in the **degree** of financial impact to the workers' compensation system a finding of unconstitutionality may bring. Rather, the Court's determination that a rational basis exists for terminating PTD benefits upon a claimant's eligibility for social security or a comparable retirement system is primarily grounded in a finding that such a statutory scheme is rationally related to insuring that PTD benefits: (1) compensate an injured worker for his or her 'work life'; and (2) do not become the 'pension program' the legislature specifically intended **not** to create in enacting §39-71-710 MCA." (emphasis in the original)

Although the Court considered the financial impact in reaching its decision, that impact has nothing to do with the rational basis test on which the Court relied. Therefore allowing the discovery Satterlee is requesting will not affect the "the fundamental crux of the Court's opinion.

Therefore, Satterlee's Motion should be denied in this matter certified for appeal.

DATED this 11 day of August, 2006.



Larry W. Jones
Attorney for Liberty Mutual Insurance Group

CERTIFICATE OF SERVICE

I hereby certify that on the 11~~th~~ day of August, 2006, I served the original of the foregoing LIBERTY'S BRIEF IN OPPOSITION TO DISCOVERY, by e-mail to:

Honorable James Jeremiah Shea (jimshea@mt.gov)
Workers' Compensation Court

By facsimile transmission, and first-class mail, postage prepaid, on the following:

Ms. Patricia J. Kessner (406/444-7798)
Clerk of Court
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624-0537

And a copy of the same by facsimile transmission and first-class mail, postage prepaid, to the following:

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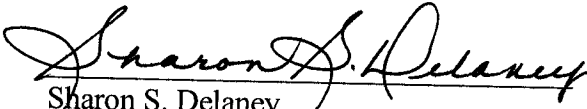
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Bockman, Jacqueline

From: Wisherd, Staci [Staci.Wisherd@LibertyMutual.com]
Sent: Tuesday, August 15, 2006 9:28 AM
To: Bockman, Jacqueline
Cc: Schmitt, Robin
Subject: Satterlee, 2003-0840

Hello Jackie:

Liberty's Brief in Opposition to Discovery was filed on Behalf of Liberty Northwest Insurance Corporation. Sorry for the mistake. Thanks! Let me know if there is anything else. -staci

Staci M. Wisherd
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