

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2014 MTWCC 2A

WCC No. 2013-3192

CHARLES GRAY

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

ORDER AMENDING SUMMARY JUDGMENT ORDER *NUNC PRO TUNC*

¶ 1 On January 30, 2014, this Court issued an Order Denying Petitioner's Motion for Summary Judgment. Paragraph 12 of this Order inadvertently set forth the incorrect standard of proof for summary judgment. Paragraph 12 presently reads as follows:

This case is governed by the 2011 version of the Montana Workers' Compensation Act (WCA) since that was the law in effect at the time of Gray's industrial accident.¹ Gray bears the burden of proving by a preponderance of the evidence that he is entitled to the benefits he seeks.²

¶ 2 Paragraph 12 is amended to read as follows:

This case is governed by the 2011 version of the Montana Workers' Compensation Act (WCA) since that was the law in effect at the time of Gray's industrial accident.³ For summary judgment to be granted, the moving party must establish that no genuine issues of material fact exist and that the moving party is entitled to judgment as a matter of law.⁴ Although the parties in this case agree that there are no material facts in

¹ *Ford v. Sentry Cas. Co.*, 2012 MT 156, ¶ 32, 365 Mont. 405, 282 P.3d 687; § 1-2-201, MCA.

² *Ricks v. Teslow Consol.*, 162 Mont. 469, 512 P.2d 1304 (1973); *Dumont v. Wickens Bros. Constr. Co.*, 183 Mont. 190, 598 P.2d 1099 (1979).

³ *Ford v. Sentry Cas. Co.*, 2012 MT 156, ¶ 32, 365 Mont. 405, 282 P.3d 687; § 1-2-201, MCA.

⁴ ARM 24.5.329; *Farmers Union Mut. Ins. Co. v. Horton*, 2003 MT 79, ¶ 10, 315 Mont. 43, 67 P.3d 285.

dispute, for the reasons set forth below, Petitioner's Motion for Summary Judgment is denied.

DATED in Helena, Montana, this 31st day of January, 2014.

(SEAL)

/s/ JAMES JEREMIAH SHEA
JUDGE

c: Thomas J. Murphy
Daniel B. McGregor
Submitted: December 23, 2013