

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2016 MTWCC 15

WCC No. 2016-3728

MICAH R. HANDY

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

Summary: Petitioner sought rescission of his settlement, arguing: (1) he did not understand he was fully settling his claim because he did not read the settlement agreement; (2) he could not have understood the settlement agreement if he had read it; (3) he was under economic duress; and (4) the settlement is unconscionable. Respondent maintains that Petitioner's claim is time-barred and that he has not met his burden of proof.

Held: Petitioner's claim is not time-barred. However, Petitioner has presented no viable grounds on which to rescind the settlement. Therefore, the settlement agreement remains in effect.

Topics:

Constitutions, Statutes, Regulations, and Rules: Montana Code Annotated: 27-2-202. Where the claimant did not specify the grounds upon which he based his request for rescission, but argued that he lacked capacity, that he was under economic duress, and that the settlement was unconscionable, under § 27-2-202(1), MCA, the applicable statute of limitations is eight years.

Settlements: Reopening: Statute of Limitations. Where the claimant did not specify the grounds upon which he based his request for rescission, but

argued that he lacked capacity, that he was under economic duress, and that the settlement was unconscionable, under § 27-2-202(1), MCA, the applicable statute of limitations is eight years.

Limitations Periods: Reopening of Settlements. Where the claimant did not specify the grounds upon which he based his request for rescission, but argued that he lacked capacity, that he was under economic duress, and that the settlement was unconscionable, under § 27-2-202(1), MCA, the applicable statute of limitations is eight years.

Settlements: Reopening: Rescission. Failing to read a Petition for Settlement in its entirety before signing it, and therefore failing to understand that the document fully and finally settles the claim, does not provide grounds to rescind it.

Settlements: Reopening: Rescission. Where the settlement was written in plain language and the claimant understood the parts he read, knew his claim had been denied and that he could appeal, wrote out the reasons he thought the settlement should be rescinded, and answered deposition questions responsively and completely, the claimant had the capacity to understand the Petition for Settlement.

Settlements: Reopening: Duress and Undue Influence. Although the claimant desperately needed funds to pay bills and catch up on his child support obligation, he could have rejected the insurer's settlement offer and proceeded to mediation. Where the insurer committed no wrongful act, but explained why it denied the claim and how to appeal, and gave the claimant ample time to consider its settlement offer, the claimant was not under economic duress.

Settlements: Reopening: Rescission. Although the claimant was in a dire financial situation, he could have rejected the insurer's settlement offer and proceeded to mediation. Where there was a legitimate dispute over the insurer's liability, the insurer kept the claimant informed, explained how to appeal, was unaware of the claimant's personal hardships, and kept its settlement offer open for two weeks, the settlement was not unconscionable.

¶ 1 The trial in this matter occurred on July 13, 2016, in Billings. Petitioner Micah R. Handy appeared as a self-represented litigant. Melissa Quale represented Respondent Montana State Fund (State Fund). Cynthia Swandal, claims examiner for State Fund, also attended.

¶ 2 Exhibits: This Court admitted Exhibits 1 through 5.

¶ 3 Witnesses and Depositions: This Court admitted the deposition of Handy. Handy and Swandal were sworn and testified.

¶ 4 Issues for Determination:

Issue One: Is Handy's claim time-barred?

Issue Two: Has Handy proven a legal basis for rescinding the settlement agreement?

FINDINGS OF FACT

¶ 5 The following facts are established by a preponderance of the evidence.

¶ 6 On January 26 and 28, 2013, Handy worked on an oil rig located approximately one hour's drive north of Plentywood. Handy alleges that he suffered frostbite while working in extremely cold temperatures.

¶ 7 On February 11, 2013, Handy quit his job.

¶ 8 On March 20, 2013, Handy underwent surgery in which one of his toes was amputated.

¶ 9 On May 10, 2013, Handy filed a First Report of Injury. It states:

I don't know exactly how cold it was. That day I thought he said it was 51 below. On January 26th I couldn't feel my feet or my hands. On Monday the 28th about mid afternoon I couldn't feel my hands or feet again. Pulling a pipe out which was getting me wet. I told Johnathon that I couldn't feel my hands or feet. Johnathon, the operator, stated that they had to get the pipe out. The next day I told Cleo that I still couldn't feel my hands or feet. After that I just couldn't feel anything anymore. That's when my feet got sores on them. I thought my body would heal up and that's why I didn't go to the doctor. This time nothing healed up.

¶ 10 On May 24, 2013, claims examiner Cynthia Swandal sent a "soft" denial letter to Handy because State Fund had not received "any medical information that correlates the symptoms you describe to work activities." Swandal asked Handy to provide the information and requested that he contact her to schedule a recorded statement.

¶ 11 Swandal later took Handy's statement via telephone. She also spoke to one of Handy's supervisors, who disputed the claim and denied that the temperatures had been as cold as Handy claimed. Swandal investigated and determined that the temperatures had not been as cold as Handy claimed and that he did not suffer frostbite at work. Once

Swandal reviewed Handy's medical records, she concluded that the medical evidence did not establish an industrial injury.

¶ 12 On September 5, 2013, Swandal sent Handy a letter informing him that his claim remained denied because, "The incident described on the First Report of Injury appears to have occurred outside the course and scope of your employment." Swandal's letter asked Handy to notify State Fund if he disagreed with the denial.

¶ 13 In late September 2013, Handy was hospitalized for six days for unrelated reasons. Handy did not tell Swandal about this hospitalization.

¶ 14 On October 23, 2013, Handy faxed a letter to Swandal. Handy's letter — written by a friend who works for a lawyer after he told her "what to put down" — acknowledges that State Fund had denied his claim and states, "I do not agree with the decision that was made and would like to appeal that decision."

¶ 15 Handy later called Swandal and asked her to send him the paperwork to petition for mediation. During that conversation, Swandal offered to settle Handy's claim on a disputed initial compensability basis for \$4,000. Swandal explained how a disputed initial compensability settlement "works." Handy does not remember the specifics of this conversation, but admitted that Swandal never told him that he would receive additional money after the \$4,000 payment.

¶ 16 On November 29, 2013, Swandal sent Handy the forms to petition for mediation and a Petition for Settlement. With regard to the Petition for Settlement, Swandal's cover letter told Handy to "review the petition and sign if you are in agreement with the offer within 14 days of receipt of the petition, if not, the original denial will remain in place."

¶ 17 The Petition for Settlement was on the standard form published by the Department of Labor & Industry for settling a claim when a dispute over initial compensability exists. Swandal had filled out the form with the terms of State Fund's settlement offer. It states, in relevant part:

The claimant filed a claim alleging to have suffered from an injury or occupational disease occurring on January 26, 2013. The insurer has disputed liability for the claim.

The controversy concerning the insurer's liability and denial of the claim has been resolved by an agreement between the claimant and the insurer whereby the claimant agrees to accept the sum of **Four thousand dollars and no cents (\$4,000.00)** paid by the insurer. . . .

The claimant and insurer understand that by entering into this settlement, and submitting this Petition to the Department of Labor & Industry, that if this Petition is approved, the above-named employer and insurer are

forever released from payment of any and all compensation, medical, and/or vocational rehabilitation benefits

. . . If the settlement is approved, the claim will be forever closed and may not be reopened by the Department. **Any and all benefits including but not limited to medical, hospital, vocational rehabilitation and all indemnity benefits are expressly closed.**

***Special Provisions: No medical benefits will be paid on this claim.¹**

¶ 18 Handy did not read the Petition for Settlement in its entirety. He read only the phrase stating State Fund would pay him \$4,000, and the signature lines, as evidenced by a call he made to Swandal with a question regarding the witness's signature. At trial, Handy explained: "I signed it because \$4,000, man, I needed that money at the time."

¶ 19 Because Handy did not read the Petition for Settlement in its entirety, he did not understand that he was fully settling his claim. He believed the payment was an advance and that he would receive additional benefits later. Handy did not read the sentence stating "No medical benefits will be paid on this claim" before he signed the Petition for Settlement. When asked at his deposition about the phrase stating that his claim "will forever be closed," Handy testified, "I see that now. . . . Back then I probably didn't see it."

¶ 20 On December 2, 2013, Handy and his witness signed the Petition for Settlement.

¶ 21 On December 11, 2013, the Department of Labor & Industry approved the settlement.

¶ 22 Within two months of the settlement, Handy called State Fund and asked if he was "getting any more money." The person with whom he spoke told him he would not receive additional benefits because he had settled his claim. Because Handy disputed that he had fully and finally settled his claim, State Fund again sent Handy the forms to petition for mediation. With the help of a lawyer, Handy filled out the forms and sent them to the Department of Labor & Industry.

¶ 23 On February 12, 2016, Handy petitioned this Court to rescind the settlement. Handy filled out this Court's forms to petition for an injury claim and for an occupational disease claim in his own handwriting. Handy wrote that he injured his left foot while "working in extreme temperatures." He also wrote, "I was working in cold weather and got frost bite. A month or so later they couldn't help it. March 20[,] 2013 they removed my left big toe." He wrote that his dispute with State Fund was "[i]mproper financial compensation," because, "offering me only \$4,000, which is not enough for medical bill."

¹ Emphasis in original.

CONCLUSIONS OF LAW

¶ 24 This case is governed by the 2011 version of the Montana Workers' Compensation Act because that was the law in effect at the time of Handy's alleged injury.²

Issue One: Is Handy's claim time-barred?

¶ 25 The statute of limitations is an affirmative defense.³ As with other affirmative defenses, the party asserting the statute of limitations – here, State Fund – bears the burden of proof.⁴

¶ 26 A settlement agreement is a contract; therefore, contract law is used to determine whether a settlement agreement is valid and enforceable.⁵

¶ 27 State Fund makes two arguments to support its claim that Handy's action is time-barred. First, citing the two-year statute of limitations for rescinding a contract for fraud or mutual mistake found at § 27-2-203, MCA, State Fund argues that Handy has not timely filed a claim to rescind the settlement agreement. Second, State Fund argues that even if this Court were to rescind the settlement agreement, Handy could not challenge the denial of liability for his claim because § 39-71-2905(2), MCA, states, "A petition for a hearing before the workers' compensation judge must be filed within 2 years after benefits are denied." This Court is not persuaded by either argument.

¶ 28 First, although Handy did not specify the grounds on which he thought this Court should rescind the settlement, his testimony and argument does not indicate that he claims the settlement should be rescinded on the grounds of fraud or mutual mistake; instead, he argued that the settlement should be rescinded for lack of capacity, economic duress, and unconscionability. Under § 27-2-202(1), MCA, the statute of limitations to set aside a written settlement on the grounds of lack of capacity and unconscionability is eight years.⁶ State Fund does not cite any other statute of limitation that would apply to Handy's claims. Thus, his claim for rescission is timely.

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

³ Mont.R.Civ.P. 8(c)(1).

⁴ *Williams v. Hilger*, 77 Mont. 399, 403, 251 P. 524, 526 (1926) (citations omitted) (stating, "The pleading of the statute of limitations is an affirmative defense, and the burden of showing that the period prescribed in the statute relied upon had run prior to the commencement of the action rested upon the defendants."). See also *Wareing v. Schreckengust*, 280 Mont. 196, 211, 930 P.2d 37, 46 (1996) (citations omitted) (since estoppel is an affirmative defense, the party asserting the estoppel bears the burden of proof).

⁵ *Morrisette v. Zurich Am. Ins. Co.*, 2000 MTWCC 2, ¶ 61 (citing *Kienas v. Peterson*, 191 Mont. 325, 32[8], 624 P.2d 1, [2] (1980)).

⁶ See *Pearson v. Montana Ins. Guaranty Assoc.*, 2012 MTWCC 1, ¶¶ 130-31 and 145-46.

¶ 29 Second, this case is limited to issues regarding the rescission of the settlement. Thus, it would be premature to consider defenses to Handy's potential challenge to State Fund's denial of liability if this Court rescinds the settlement and restores the parties to their original positions.

¶ 30 Accordingly, Handy's claim is not time-barred.

Issue Two: Has Handy proven a legal basis for rescinding the settlement agreement?

¶ 31 Handy bears the burden of proving by a preponderance of the evidence that he is entitled to rescind the settlement agreement.⁷

¶ 32 Based on Handy's testimony and argument, he maintains that this Court should rescind the settlement on the grounds of lack of understanding, lack of capacity, economic duress, and unconscionability. However, State Fund is correct that under the evidence presented, Handy is not entitled to rescind the settlement on any of these grounds.

¶ 33 First, Handy argues that this Court should rescind the settlement because he did not read the Petition for Settlement in its entirety and, therefore, did not understand that he was fully and finally settling his claim. He testified: "I just didn't know what I was signing."

¶ 34 However, a party cannot rescind a contract on the grounds that he did not read it before signing. "One who executes a written contract is presumed to know the contents of the contract and to assent to those specified terms"⁸ The Montana Supreme Court has explained, "The integrity of written contracts would be destroyed if contracting parties, having admitted signing the instrument, were allowed to rescind the contract on the basis they neither read nor understood the expressed agreement."⁹ Under this law, Handy's failure to read the Petition for Settlement provides no grounds to rescind it.

¶ 35 Second, Handy argues that this Court should rescind the settlement because he did not have the capacity to understand the Petition for Settlement. Although Handy can read, he maintains that legal documents are too complex for him to comprehend.

¶ 36 The Montana Supreme Court has explained:

Any person who manifests assent to a transaction has full legal capacity to incur contractual duties unless he is (1) under guardianship (2) an infant, or ([3]) mentally ill or defective. . . . [A] person is mentally defective for

⁷ *Wolfe v. Webb*, WCC: 8812-5015, 1990 WL 304003, at *18 (Mont. Work.Comp.Ct. June 26, 1990).

⁸ *Quinn v. Briggs*, 172 Mont. 468, 476, 565 P.2d 297, 301 (1977).

⁹ *Id.* (citation omitted).

purposes of capacity, when the party, for any reason, is incapable of understanding the force and effect of the alleged agreement. However, a mere mental weakness short of such incapacity will not invalidate a contract because capacity deals with the ability to understand the terms of the document, not a person's actual understanding. Stated differently, "[c]apacity relates to the status of the person rather than the circumstances surrounding the transaction."¹⁰

¶ 37 The evidence shows that Handy had the capacity to understand the Petition for Settlement. Handy's letter dated October 23, 2013, demonstrates that he understood that State Fund had denied his claim and that he could appeal. Handy thus knew that State Fund's position was adversarial to his. Handy understood the parts of the document that he read, as he knew he was receiving \$4,000 and that he needed a witness to sign it. Handy filled out this Court's Petition for Trial forms in his own handwriting, explaining the reasons he thought the settlement should be rescinded and thereby demonstrating his literacy and his understanding of what had occurred. Handy's answers to questions at his deposition and at trial were responsive and complete, demonstrating that he has no significant problems with comprehension. Although Handy argues that he does not understand legal terms, the Petition for Settlement is written in plain language. The Petition for Settlement states that State Fund would be "forever released" from paying benefits, that Handy's claim would be "forever closed," that it would not be "reopened," and that, "No medical benefits will be paid on this claim." This Court is convinced that if Handy had read the Petition for Settlement, he would have understood that he was fully settling his claim for \$4,000. Accordingly, Handy cannot rescind the settlement on the grounds that he lacked capacity.

¶ 38 Third, Handy argues that this Court should rescind the settlement because he was under economic duress. Handy explained that at the time he entered into the settlement agreement, he desperately needed the \$4,000 to pay bills and catch up on his child support obligation.

¶ 39 This Court addressed the issue of economic duress in *Frazer v. Montana State Fund*.¹¹ Frazer settled his claim on a disputed liability basis because he needed the money to pay his deductible and co-pay for a surgery.¹² He argued that the settlement should be set aside because he was under economic duress at the time he settled his claim.¹³ This Court stated that to set aside a contract on the grounds of economic duress, there must be: " '(1) a wrongful act that; (2) overcomes the will of a person; (3) who has

¹⁰ *Wilkes v. Estate of Wilkes*, 2001 MT 118, ¶ 12, 305 Mont. 335, 27 P.3d 433 (citations omitted) (internal quotation marks omitted).

¹¹ 2005 MTWCC 41.

¹² *Frazer*, ¶ 11.

¹³ *Id.*

no adequate legal remedy to protect his interests.’ ”¹⁴ This Court explained that Frazer failed to prove the elements of economic duress because he “failed to identify any wrongful act on the part of the State Fund. He also had an adequate remedy to protect his interest – he could have petitioned the Workers’ Compensation Court for benefits instead of agreeing to a settlement.”¹⁵

¶ 40 Likewise, Handy has not proven the elements of economic duress. He does not identify any wrongful act on State Fund’s part, and this Court has found none. State Fund informed him that it had denied liability for his claim, set forth the grounds for the denial, notified him of his right to appeal, and sent him the forms to petition for mediation. State Fund also gave Handy ample time to consider its settlement offer. As in *Frazer*, Handy also had an adequate legal remedy: he could have rejected State Fund’s offer and petitioned for mediation – and then to this Court, if necessary – to resolve the dispute instead of agreeing to a settlement. Thus, Handy does not have grounds to reopen the settlement due to economic duress.

¶ 41 Finally, Handy argues that this Court should rescind the settlement because it is unconscionable. Handy contends that \$4,000 was inadequate consideration given the severity of his injury and the amount of his medical bills.

¶ 42 In *Kelly v. Widner*, the Montana Supreme Court stated, “The underlying principle of conscionability is that of doing justice under the circumstances of each case.”¹⁶ The court explained:

Unconscionability is an equitable doctrine, without a succinct or precise definition. While no single factor is determinative, elements which may be indicators of unconscionability include unequal bargaining power, lack of meaningful choice, oppression, and exploitation of the weaker party’s vulnerability or lack of sophistication. Inadequacy of consideration does not by itself invalidate a bargain, but may be a factor in determining conscionability.¹⁷

¶ 43 Handy did not establish that the settlement is unconscionable under these factors. Although State Fund had greater bargaining power, Handy had a “meaningful choice” because he could have rejected the settlement offer and then proceeded to mediation and then to this Court. Handy did not establish oppression because State Fund told him

¹⁴ *Frazer*, ¶ 15 (quoting *Somersille v. Columbia Falls Aluminum Co.*, 255 Mont. 101, 108, 841 P.2d 483, 487 (1992)).

¹⁵ *Id.*

¹⁶ 236 Mont. 523, 528, 771 P.2d 142, 145 (1989).

¹⁷ *Id.* (citations omitted). See also *Fisher ex rel. McCartney v. State Farm Mut. Auto. Ins. Co.*, 2013 MT 208, ¶ 41, 371 Mont. 147, 305 P.3d 861 (citations omitted) (“ ‘Unconscionability requires a two-fold determination: that the contractual terms are unreasonably favorable to the drafter and that there is no meaningful choice on the part of the other party regarding acceptance of the provisions.’ ”).

what information it needed to investigate his claim, informed him it was denying his claim, set forth the reasons for the denial, explained how to appeal the denial, and sent him the forms to petition for mediation. There is no evidence that State Fund exploited Handy, as State Fund did not know about his dire financial situation or his hospitalization two months before the settlement. Moreover, State Fund did not pressure or leverage Handy into a hasty settlement. Swandal conveyed the offer to Handy approximately 10 months after his alleged injury, and after the extent of his injury was known. She mailed the Petition for Settlement to Handy, told him to review it, and agreed to keep State Fund's settlement offer open for two weeks after he received it. This Court cannot conclude that the consideration is inadequate or that the settlement terms are unreasonably favorable to State Fund because there was a legitimate dispute over State Fund's liability and it was uncertain whether State Fund would have had to pay any benefits.¹⁸ Thus, Handy has not met his burden of proving that the settlement was unconscionable.

¶ 44 For the foregoing reasons, Handy has not proven a legal basis for rescinding the settlement agreement.

JUDGMENT

¶ 45 Handy's claim is not time-barred.

¶ 46 Handy has not proven a legal basis for rescinding the settlement agreement.

¶ 47 Pursuant to ARM 24.5.348(2), this Judgment is certified as final and, for purposes of appeal, shall be considered as a notice of entry of judgment.

¶ 48 Any party to this dispute may have twenty days in which to request reconsideration from these FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT.

DATED this 10th day of October, 2016.

(SEAL)

/s/ DAVID M. SANDLER
JUDGE

c: Micah R. Handy
Melissa Quale

Submitted: July 13, 2016

¹⁸ See *Lence Family Trust v. Christensen*, CV 12-171-M-DWM, 2016 WL 816737, at *4 (D. Mont. February 26, 2016) (ruling that where the plaintiff alleged unconscionability, \$100,000 settlement in dispute over more than \$2,000,000 was adequate consideration because it was uncertain whether the plaintiff was entitled to any money and the "\$100,000 provided the added value of a concrete and immediate payout" and "was more useful than an uncertain \$2,000,000 in the future."), *appeal docketed* (9th Cir. March 24, 2016).