

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2020 MTWCC 21

WCC No. 2020-5145

MICHAEL MILLER

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

**APPEALED TO MONTANA SUPREME COURT – DA 21-0120 – MARCH 15, 2021
AFFIRMED 2021 MT 187N – JULY 27, 2021**

**ORDER GRANTING PARTIAL SUMMARY JUDGMENT TO RESPONDENT AND
DISMISSING PETITIONER'S TORT CLAIMS**

Summary: For the third time in this Court, Petitioner seeks to rescind his 1988 settlement agreement with Respondent. Petitioner also seeks relief from a Judgment and Order that this Court entered in 2001, which adjudged that the parties had fully and finally settled Petitioner's 1983 workers' compensation claim. Petitioner also makes tort claims and prays for damages. Respondent moves for summary judgment, asserting that Petitioner's claims to rescind their 1988 settlement agreement are barred by the doctrines of res judicata or collateral estoppel.

Held: This Court granted summary judgment to Respondent on Petitioner's claims to rescind their 1988 settlement agreement under the doctrine of res judicata because Petitioner litigated identical claims to final judgment in his second case against Respondent. Indeed, in Petitioner's second case, this Court ruled that these claims were barred by res judicata because Petitioner could have litigated them in his first case against Respondent, in which Petitioner also sought to rescind their 1988 settlement agreement. These claims remain barred by res judicata. This Court dismissed Petitioner's tort claims because this Court does not have subject matter jurisdiction over tort claims.

¶ 1 For the third time in this Court, Petitioner Michael Miller seeks to rescind his 1988 settlement agreement with Respondent Montana State Fund (State Fund). Miller also seeks relief from a Judgment and Order this Court entered in 2001, in which this Court adjudged that the parties had fully and finally settled Miller's 1983 workers' compensation claim. He also brings tort claims and prays for damages.

¶ 2 State Fund moves for summary judgment, asserting that Miller's claims to rescind their 1988 settlement agreement are barred by the doctrines of res judicata or collateral estoppel because Miller has already litigated these claims and issues against it.

¶ 3 Miller opposes State Fund's motion but does not address State Fund's res judicata or collateral estoppel defenses. Instead, he asserts that his claims to rescind their 1988 settlement agreement are timely, asserting that no statute of limitations applies when the grounds for seeking rescission is mistake of law.

¶ 4 This Court grants summary judgment to State Fund on Miller's claims to rescind their 1988 settlement agreement because his claims are barred by res judicata. This Court also dismisses Miller's tort claims. State Fund did not move for summary judgment on Miller's claim regarding their 2001 settlement agreement and the resulting Judgment and Order; thus, this Court makes no ruling on the merits of that claim.

PROCEDURAL HISTORY AND FACTS

¶ 5 On October 23, 1983, Miller suffered a closed head injury in the course of his employment.

¶ 6 State Fund accepted liability for Miller's claim.

¶ 7 On September 20, 1988, Miller and State Fund reached a compromise settlement agreement over their disputes as to the amount of benefits that State Fund owed and would owe, leaving medical benefits open.

¶ 8 On November 4, 1988, the Department of Labor & Industry approved their settlement.¹

¶ 9 On August 3, 1998, Miller filed his first Petition for Hearing against State Fund. He claimed that their 1988 settlement agreement should be rescinded on the grounds that they were operating under a mutual mistake of fact as to his physical ability to operate his own ranch.²

¹ *Miller v. State Comp. Ins. Fund*, Mont. Dep't of Labor & Indus., Workers' Comp. Div., Case No. 3-84-04564-7 (Order Approving a Full and Final Compromise Settlement (Total Disability) (Nov. 4, 1988)).

² *Miller v. State Comp. Ins. Fund*, 1999 MTWCC 21, ¶¶ 12, 21.

¶ 10 On March 11, 1999, this Court issued its Findings of Fact, Conclusions of Law, and Judgment, ruling that Miller's claim to rescind their 1988 settlement agreement on the grounds of mutual mistake of fact was time-barred under the two-year statute of limitations in § 27-2-203, MCA.³

¶ 11 On January 27, 2000, the Montana Supreme Court affirmed this Court's ruling.⁴

¶ 12 On March 29, 2000, Miller filed his second Petition for Hearing against State Fund.⁵ *Inter alia*, Miller again sought to rescind their 1988 settlement agreement.⁶

¶ 13 On November 17, 2000, this Court issued its Order Governing Further Proceedings.⁷ On Miller's claims to rescind the 1988 settlement agreement, this Court made four rulings, as follows:

¶ 13a This Court ruled that, under the doctrine of *res judicata*, Miller could not relitigate his claim that the 1988 settlement agreement should be rescinded on the grounds that the parties were operating under a mistake of fact as to his ability to operate his own ranch, including State Fund's statute of limitations defense.⁸

¶ 13b This Court dismissed Miller's claim to rescind the 1988 settlement agreement on the grounds that the parties were operating under a mistake of law because State Fund did not consider cost-of-living-adjustments (COLAs) when evaluating the value of his claim.⁹ This Court explained that Miller's allegation did not set forth a mistake of law because an injured worker was not entitled to COLAs under the 1983 Workers' Compensation Act.¹⁰

¶ 13c This Court ruled that Miller's dissatisfaction with the lawyer who initially represented him was not grounds to rescind the 1988 settlement agreement.¹¹

¶ 13d Because Miller alleged that the Clerk of this Court had told him to limit his first case, this Court ruled that if Miller could prove that he was precluded from bringing all of his claims in his first case, then he could proceed on: (1) his claim to rescind the 1988 settlement agreement on the grounds of mistake of law

³ *Miller*, 1999 MTWCC 21, ¶ 27.

⁴ *Miller v. State Comp. Ins. Fund*, 2000 MT 19N, 299 Mont. 544, 4 P.3d 1218.

⁵ *Miller v. State Comp. Ins. Fund*, WCC. No. 2000-0059, Docket Item No. 1 (Petition for Hearing (Injury)).

⁶ *Id.*

⁷ *Miller v. State Comp. Ins. Fund*, WCC. No. 2000-0059, Docket Item No. 30.

⁸ *Id.*, ¶¶ 21, 34, 47, 49.

⁹ *Id.*, ¶¶ 31–32.

¹⁰ *Id.*, ¶ 32.

¹¹ *Id.*, ¶ 45.

because State Fund reduced his payment to present value; and (2) his claim to rescind the 1988 settlement agreement on the grounds that it was based on a mistake of fact as to Miller's weekly benefits rate, the calculation of which did not include his alleged concurrent employment.¹² This Court noted that if Miller had not been told to limit his case, then these claims would be barred by res judicata.¹³ This Court stated it would call in a district court judge to hold a hearing and make findings as to whether the Clerk of this Court had told Miller to limit his first case, thereby depriving him of his opportunity to present other grounds to rescind the 1988 settlement in his first case.¹⁴

¶ 14 This Court called in District Court Judge Jeffrey M. Sherlock on the issue of whether the Clerk of this Court told Miller to limit his first case.¹⁵ After an evidentiary hearing, Judge Sherlock found that the Clerk of this Court had not told Miller to limit his first case.¹⁶

¶ 15 On May 14, 2001, this Court issued its Findings of Fact, Conclusions of Law, and Judgment,¹⁷ and certified its Judgment as final.¹⁸ On Miller's claims to reopen the 1988 settlement agreement, this Court made three rulings, as follows:

¶ 15a This Court adopted Judge Sherlock's findings and ruled that Miller's claims to rescind the 1988 settlement agreement were barred by res judicata because Miller had the opportunity to litigate these claims in his first case against State Fund.¹⁹

¶ 15b If Miller's claims were not barred by res judicata, this Court ruled that the parties were not operating under a mistake of law as to whether State Fund could reduce Miller's settlement amount to present value. This Court found that the parties did not agree to a "lump-sum payout of undisputed total disability benefits erroneously reduced to present value" under § 39-71-741, MCA (1983).²⁰ Rather, this Court found that the parties negotiated a compromise settlement of their

¹² *Id.*, ¶¶ 52, 56.

¹³ *Id.*, ¶¶ 9-12, 28, 30, 50.

¹⁴ *Id.*, ¶ 55.

¹⁵ *Miller v. State Comp. Ins. Fund*, WCC No. 2000-0059, Docket Item No. 31.

¹⁶ *Miller v. State Comp. Ins. Fund*, WCC No. 2000-0059, Docket Item No. 47 at 6 (Findings of Fact, Conclusions of Law and Order) (Feb. 5, 2001).

¹⁷ 2001 MTWCC 21, ¶ 77.

¹⁸ *Id.*, ¶ 95.

¹⁹ 2001 MTWCC 21, ¶¶ 2, 77.

²⁰ 2001 MTWCC 21, ¶¶ 15-29.

disputes over the amount of benefits State Fund owed and would owe, and agreed to an amount of consideration.²¹

¶ 15c If Miller's claims were not barred by res judicata, this Court ruled that the parties were not operating under a mistake of fact concerning Miller's alleged concurrent employment.²²

¶ 16 In June 2001, Miller and State Fund attended a settlement conference at which they reached a second settlement agreement. On June 12, 2001, Miller, his wife, and State Fund's attorney signed a Stipulation of Parties, the purpose of which was "a full and final compromise settlement of all issues arising from Petitioner's injury on October 23, 1983, including those in WCC No. 2000-0059" and to "fully and finally compromis[e] all benefits payable under the Workers' Compensation and/or Occupational Disease Acts, including but not limited to medical, rehabilitation, wage loss and indemnity benefits."²³ For its part of the settlement, State Fund agreed, *inter alia*, to pay Miller \$67,500.²⁴ In exchange, Miller agreed, *inter alia*, to settle "all benefit claims" and to "a complete closure of all other court proceedings against the State Fund, including appeal, as it pertains or relates to his October 23, 1983 injury."²⁵ Miller agreed that he entered into the settlement "of his own free will and accord without any compulsion or duress and with the counsel and advice of Amy Miller and William Galt."²⁶ The parties asked this Court to enter a judgment in accordance with their settlement agreement.²⁷

¶ 17 Pursuant to the parties' settlement agreement, on June 14, 2001, this Court entered a Judgment and Order.²⁸ This Court ordered State Fund to pay Miller the \$67,500 and noted that, *inter alia*, Miller had agreed to dismiss a pending motion for reconsideration and to completely close all other court proceedings against State Fund, including appeal.²⁹ This Court adjudged that the parties' dispute "has been resolved by

²¹ *Id.*

²² 2001 MTWCC 21, ¶¶ 30–33, 79.

²³ *Miller v. State Comp. Ins. Fund*, WCC. No. 2000-0059, Docket Item No. 59 at 1-2 (emphasis in original) (Stipulation of Parties) (Jun. 13, 2001).

²⁴ *Id.* at 2.

²⁵ *Id.* For context for Miller's agreement to close "all other court proceedings," Miller had also filed a case against State Fund in the Montana Twentieth Judicial District Court, Lake County, asserting, *inter alia*, that their 1988 settlement agreement should be rescinded based on mistake of fact. On February 8, 2001, the District Court granted summary judgment for State Fund, ruling that Miller's mistake of fact claim was barred by res judicata because it was "identical" to the claims Miller made in his cases against State Fund in this Court and ruling against Miller on his other claims for relief. *Miller v. Mont. State Fund*, Lake Cnty. Cause No. DV00-110 (Findings of Undisputed Fact, Conclusions of Law, and Order on Defendant State Fund's Motion for Summary Judgment) (Feb. 8, 2001).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Miller v. State Comp. Ins. Fund*, WCC. No. 2000-0059, Docket Item No. 60 (Judgment and Order) (Jun. 14, 2001).

²⁹ *Id.* at 1.

an agreement between the parties [to] fully and finally compromis[e] all benefits payable under the Workers' Compensation and/or Occupational Disease Acts, including but not limited to medical, rehabilitation, wage loss, and indemnity benefits."³⁰

¶ 18 On August 11, 2020, Miller filed his third and current Petition for Hearing against State Fund³¹ and has since filed two amendments.³² In these pleadings, Miller again seeks rescission of their 1988 settlement agreement. He again claims mistake of law on the grounds that State Fund unlawfully reduced the 1988 settlement agreement amount to present value and did not add COLAs when calculating the value of his claim. Miller also claims mistake of fact on the grounds that State Fund did not consider his concurrent employment when it calculated his weekly benefits rate. Miller attaches documents from 1985 to 1988 to support his claims. Miller also seeks rescission of his 2001 settlement agreement with State Fund – which this Court deems to be a request for relief from this Court's Judgment and Order entered on June 14, 2001, in WCC No. 2000-0059³³ – on the grounds that State Fund unlawfully did not add COLAs when evaluating the value of his claim. Miller also brings tort claims – e.g., he alleges that State Fund lied to him – and prays for damages.

LAW AND ANALYSIS

¶ 19 To prevail on a motion for summary judgment, the moving party must meet its initial burden of showing the “absence of a genuine issue of material fact and entitlement to judgment as a matter of law.”³⁴ “[I]f the moving party meets its initial burden to show the absence of a genuine issue of fact and entitlement to judgment, the burden shifts to the party opposing summary judgment either to show a triable issue of fact or to show why the undisputed facts do not entitle the moving party to judgment.”³⁵

¶ 20 Res judicata, or claim preclusion, bars a party from relitigating a cause of action that it has already litigated to final judgment or had the opportunity to litigate to final judgment in its earlier case.³⁶

³⁰ *Id.* (emphasis in original).

³¹ *Miller v. Mont. State Fund*, WCC No. 2020-5145, Docket Item No. 1.

³² Docket Item Nos. 11 and 12.

³³ See *State Comp. Ins. Fund v. Chapman*, 267 Mont. 484, 490, 885 P.2d 407, 411 (1994) (holding that party seeking relief from a judgment of the Workers' Compensation Court must do so under M.R.Civ.P. 60). *Heath v. Mont. State Fund*, 2019 MTWCC 4 (ruling that when parties settle and ask this Court to enter judgment in accordance with their agreement, a party seeking to rescind the settlement agreement and reopen the workers' compensation claim must seek relief from this Court's judgment under M.R.Civ.P. 60).

³⁴ ARM 24.5.329. See also *Begger v. Mont. Health Network WC Ins. Trust*, 2019 MTWCC 7, ¶ 15 (citation omitted).

³⁵ *Richardson v. Indem. Ins. Co. of N. Am.*, 2018 MTWCC 16, ¶ 24 (alteration added) (citation omitted), *aff'd*, 2019 MT 160, 396 Mont. 325, 444 P.3d 1019.

³⁶ See *Baltrusch v. Baltrusch*, 2006 MT 51, ¶¶ 16, 17, 331 Mont. 281, 130 P.3d 1267 (citations omitted). See also *Reisbeck v. Farmers Ins. Exch.*, 2020 MT 171, ¶ 15, 400 Mont. 345, 467 P.3d 557 (“Claim preclusion ‘bars a

¶ 21 Here, State Fund has met its burden of establishing the absence of a genuine issue of material fact and its burden that it is entitled to judgment as a matter of law under the doctrine of res judicata on Miller's claims to rescind the 1988 settlement. In his second case against State Fund, Miller litigated to final judgment the identical causes of action he has brought in this case. In Miller's second case against State Fund, he alleged mistake of law claims on the grounds that State Fund did not apply COLAs when evaluating the settlement value and on the grounds that State Fund wrongfully reduced the 1988 settlement amount to present value. He has brought the identical claims in this case. Likewise, in his second case against State Fund, Miller brought a mistake of fact claim on the grounds that State Fund did not consider his alleged concurrent employment when calculating his weekly benefit rate. He has brought the identical claim in this case. Indeed, in Miller's second case, this Court ruled that these claims were barred by res judicata because Miller could have litigated them in his first case against State Fund in which he sought to rescind the 1988 settlement agreement, which Miller litigated to final judgment. Miller's claims to rescind the 1988 settlement agreement are still barred by res judicata.

¶ 22 Miller does not address res judicata. Instead, he argues that his claims are timely because Jason Swant – who works for the Department of Labor & Industry, and not State Fund – allegedly told him that there is no statute of limitations for a claim to rescind a settlement agreement on mistake of law. However, Miller's argument is beside the point.³⁷ This Court is not granting summary judgment to State Fund on Miller's claims to rescind the 1988 settlement agreement on statute of limitations grounds; i.e., this Court is not now ruling that Miller's claims to rescind the 1988 settlement agreement are untimely. Rather, this Court is granting summary judgment to State Fund on these claims under the doctrine of res judicata; i.e., this Court is granting summary judgment to State Fund because Montana law does not allow a party to relitigate claims that have been litigated to final judgment, or which could have been litigated to final judgment, in a previous case.

¶ 23 As an additional point, this Court does not have subject matter jurisdiction over Miller's tort claims and cannot award him damages.³⁸ Accordingly, this Court dismisses all such claims.³⁹

second suit involving the same parties or their privies based on the *same* cause of action.' Claim preclusion also bars those issues 'that *could* have been litigated in the prior cause of action.' ") (citation omitted).

³⁷ Because Miller's argument is beside the point, this Court makes no finding as to whether Swant actually said that there is no statute of limitations for claims to rescind a settlement on the grounds of mistake of law, nor a conclusion of law as to whether there is no statute of limitations for such claims.

³⁸ See § 39-71-2905(1), MCA (providing that this Court's jurisdiction is over disputes over workers' compensation benefits). See also *Liberty Nw. Ins. Corp. v. State Comp. Ins. Fund*, 1998 MT 169, ¶ 10, 289 Mont. 475, 962 P.2d 1167 (holding that this Court does not have jurisdiction over tort claims and cannot award damages, even if the alleged torts occurred in a workers' compensation claim).

³⁹ See *Robinson v. Mont. State Fund*, 2018 MTWCC 7, ¶¶ 27–29 (explaining that this Court has independent duty to determine if it has subject matter jurisdiction and dismissing tort claim because this Court does not have subject matter jurisdiction over tort claims).

¶ 24 Based on Miller's Petition for Hearing, and his two amendments, the only remaining claim in this case is Miller's request for relief from this Court's Judgment and Order entered on June 14, 2001, in WCC No. 2000-0059. This Court will address the merits of that claim when the parties submit it to this Court for decision, either by motion or trial.

¶ 25 Accordingly, this Court enters the following:

ORDER

¶ 26 This Court **grants** State Fund summary judgment on Miller's claims to rescind the 1988 settlement.

¶ 27 This Court **dismisses** Miller's tort claims for lack of subject matter jurisdiction.

DATED this 25th day of November, 2020.

(SEAL)

/s/ DAVID M. SANDLER
JUDGE

c: Michael Miller
Mark D. Meyer

Submitted: November 9, 2020