

NOTICE REGARDING CONSTITUTIONAL CHALLENGES

In *Polk v. Planet Ins. Co.*, 2001 MTWCC 44A,¹ this Court held that a party raising a constitutional issue is not required to give notice of the challenge to the Attorney General since the Workers' Compensation Court assumed responsibility for giving that notice.

The Court's Rules regarding constitutional challenges are silent; therefore, ARM 24.5.352 refers us to the Montana Rules of Civil Procedure for guidance.

In 2011, the Montana Supreme Court repealed M. R. Civ. P. 24(d) and enacted M. R. Civ. P. 5.1 which requires the **party** making the constitutional challenge to "promptly file a notice of constitutional question stating the question and identifying the paper that raises it, and serve the notice and paper on the state attorney general"

Because the WCC's rules are silent on this issue, and M. R. Civ. P. 5.1 is explicit in its requirements, all parties are advised that constitutional challenges in the WCC are governed by M. R. Civ. P. 5.1.

¹ http://wcc.dli.mt.gov/P/POLK_Amendment_to_Order_On_Appeal.htm