IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2006 MTWCC 37

WCC No. 2005-1490

RICHARD POPENOE

Petitioner

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent.

Appealed to Supreme Court December 15, 2006
Appeal Dismissed, Case Remanded to WCC February 7, 2007

Order Vacated and Withdrawn Pursuant to Stipulation of Counsel and Order and Judgment of Court February 8, 2007

ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

Summary: Petitioner moved for summary judgment after Respondent denied his claim for workers' compensation benefits. Respondent filed a cross-motion for summary judgment. Petitioner broke his ankle when he fell in his employer's parking lot while removing his bicycle from the back of a friend's truck approximately five minutes before the start of his shift. Petitioner claims that his injury is compensable under the "premises rule," while Respondent argues that Petitioner's injury is not compensable because it falls under the "going and coming" rule, now codified by § 39-71-407, MCA, and because Petitioner's actions at the time of his injury were not within the scope of his employment.

Held: Summary judgment is granted in favor of Petitioner. Montana case law has established that after an employee has arrived at his employer's premises and he is no longer engaged in traveling to or from the site of his employment, an injury suffered by the employee is compensable under the "premises rule." Petitioner is entitled to attorney fees and a penalty because, in light of the applicable statutes and case law, Respondent's denial of benefits was unreasonable.

Topics:

Employment: Course and Scope: Coming and Going. Whether a location was also open to the general public was irrelevant to the Montana Supreme Court's respective conclusions in *McMillen v. Arthur G. McKee and Co.*, 166 Mont. 400, 533 P.2d 1095 (1975); *Heath v. Montana Municipal Ins. Authority*, 1998 MT 111, 288 Mont. 463, 959 P.2d 480; and *Griffin v. Indus. Accident Fund*, 111 Mont. 110, 106 P.2d 346 (1940), which all fell under the going and coming rule as none of the employees were on the premises used in connection with their actual place of work at the time of their injuries.

Employment: Course and Scope: Coming and Going. Petitioner was in his employer's parking lot approximately five minutes before the start of his shift and was removing his bicycle from the back of his friend's pick-up truck when he fell. It is of no importance that his employer did not direct where and how he was to unload his bicycle; he was on the premises used in connection with his actual place of work and was well within the premises rule exception to the going and coming rule.

Employment: Course and Scope: Premises Rule. Petitioner was in his employer's parking lot approximately five minutes before the start of his shift and was removing his bicycle from the back of his friend's pick-up truck when he fell. It is of no importance that his employer did not direct where and how he was to unload his bicycle; he was on the premises used in connection with his actual place of work and was well within the premises rule exception to the going and coming rule.

Employment: Course and Scope: Travel. Where Petitioner was in his employer's parking lot approximately five minutes before the start of his shift and was removing his bicycle from the back of his friend's pick-up truck when he fell, the fact that Respondent had no control over how Petitioner traveled to and from work is irrelevant as he had arrived on his employer's premises.

Employment: Course and Scope: Premises Rule. Where Petitioner was in his employer's parking lot approximately five minutes before the start of his shift and was removing his bicycle from the back of his friend's pick-up truck when he fell, the fact that Respondent had no control over how Petitioner traveled to and from work is irrelevant as he had arrived on his employer's premises.

Constitutions, Statutes, Regulations, and Rules: Montana Code Annotated: § 39-71-2907. Penalty against insurer assessed where Court failed to appreciate how Respondent could favorably distinguish the facts in

this case from the similar fact patterns of two Montana Supreme Court rulings regarding a case where a worker was injured on his employer's premises prior to the start of his shift.

Penalties: Insurers. Penalty against insurer assessed where Court failed to appreciate how Respondent could favorably distinguish the facts in this case from the similar fact patterns of two Montana Supreme Court rulings regarding a case where a worker was injured on his employer's premises prior to the start of his shift.

Unreasonable Conduct by Insurers. Respondent's denial of Petitioner's claim was unreasonable where the Montana Supreme Court's ruling in a factually similar case in which a worker was injured while on his employer's premises in the process of reporting to work supported the compensability of Petitioner's claim.

Constitutions, Statutes, Regulations, and Rules: Montana Code Annotated: § 39-71-611. Because the insurer denied liability for a claim which was adjudged compensable by this Court, and because the Court determined that the insurer's actions in denying liability were unreasonable, Petitioner is entitled to his attorney fees.

¶ 1 Petitioner moved this Court for summary judgment pursuant to ARM 24.5.329(2) asserting that, no material facts being in dispute, he is entitled to summary judgment because his injury, which occurred when he fell on his employer's parking lot five minutes prior to the start of his shift, is compensable under the "premises rule."[1] Respondent filed a cross-motion for summary judgment, arguing that with no material facts in dispute, it is entitled to judgment as a matter of law.[2] Respondent argues that Petitioner's injury is not compensable because it falls under § 39-71-407, MCA, commonly known as the "going and coming" rule, and Petitioner was not acting within the scope of his employment at the time of his injury.[3]

UNDISPUTED FACTS

¶ 2 The parties have stipulated to the following facts:

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[1] Petitioner's Brief in Support of Motion for Summary Judgment (hereinafter "Petitioner's Brief") at 1.

[2] Response to Petitioner's Motion for Summary Judgment, LNW's Cross-Motion for Summary Judgment, and Combined Supporting Brief (hereinafter "Response") at 1.

[3] *Id.* at 2.

¶ 2a Petitioner has worked part-time as a janitor and dishwasher at the 4B's Restaurant in Hamilton, Montana, for approximately 3 to 3.5 years.[4]

¶ 2b Petitioner performs his job duties only at the 4B's Restaurant in Hamilton.[5]

¶ 2c On July 29, 2005, Petitioner was scheduled to work his usual shift from 10:00 p.m. to 6:00 a.m.[6]

¶ 2d Petitioner got a ride to work from a friend.[7]

¶ 2e Petitioner intended to ride his bicycle home from work, so he transported it to 4B's Restaurant in the back of his friend's pick-up truck.[8]

¶ 2f Petitioner's friend parked his truck in a parking space on the east side of the 4B's Restaurant building.[9]

¶ 2g While Petitioner was unloading his bicycle from the back of the pick-up truck, he fell and broke his ankle.[10]

¶ 2h Petitioner's shift had not yet started at the time of his fall.[11]

¶ 2i Petitioner regularly got to work either by riding his bicycle or getting a ride from family or friends.[12]

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[4] Joint Statement of Uncontested Facts and Request to Submit Matter on Briefs (hereinafter "Joint Statement"), ¶¶ 1-2.

[5] *Id.*, ¶ 3.

[6] *Id.*, ¶¶ 4-5.

[7] *Id.*, ¶¶ 6-8.

[8] *Id.*, ¶¶ 10-11.

[9] *Id.*, ¶ 17.

[10] *Id*, ¶¶ 24, 27.

[11] *Id.*, ¶ 26.

[12] *Id.*, ¶ 30.

¶ 2j Petitioner, with permission from his supervisor, generally stored his bicycle inside the 4B's Restaurant building during his shift.[13]

¶ 2k Petitioner timely filed a claim for compensation with Respondent.[14]

¶ 2l Respondent denied Petitioner's claim on the grounds that he was not yet performing duties in the course and scope of his employment at the time of the accident.[15]

¶ 3 The following issues are presented for summary judgment:

¶ 3a Whether Petitioner's injury is compensable under his employer's workers' compensation coverage;

¶ 3b Whether Petitioner is entitled to his costs and attorney fees; and

¶ 3c Whether Petitioner is entitled to a 20% penalty against Respondent.[16]

ANALYSIS AND DECISION

¶ 4 This case is governed by the 2005 version of the Montana Workers' Compensation Act since that was the law in effect at the time of Petitioner's injury.[17]

¶ 5 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.[18]

¶ 6 Petitioner argues that Respondent denied his claim by inaccurately asserting that he was traveling to work at the time of the accident when in fact Petitioner had already arrived on his employer's premises. Petitioner maintains that Respondent ignored

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[13] *Id.*, ¶¶ 36-37.

[14] *Id.*, ¶ 42.

[15] *Id.*, ¶ 43.

[16] Petitioner's Brief at 8; Petitioner's List of Witnesses and Exhibits and Claim for Attorney Fees and Penalty at 3.

[17] *Buckman v. Montana Deaconess Hosp.*, 224 Mont. 318, 321, 730 P.2d 380, 382 (1986).

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

controlling case law and failed to make any reasonable argument for so doing. Therefore, Petitioner argues that he is entitled to his costs and attorney fees[19] and a 20% penalty.[20]

¶ 7 Respondent moves for summary judgment and responds that the distinction between whether Petitioner was traveling or had arrived at his employer's is irrelevant, because "[t]he 'going and coming' rule and the 'premises rule' are two sides of the same coin – the 'employer-control' rule'."[21] Respondent explains that not only is it clear that an employer cannot be held responsible for the injuries of an employee under the going and coming rule, but under the "premises rule," an employer can only be held responsible if the employer "did, or could, exercise control over where and how an accident occurred while an employee is on the employers' premises."[22] Respondent argues that although Petitioner was in his employer's parking lot, his employer could not control where and how Petitioner unloaded his bicycle. Furthermore, Respondent notes, the location where Petitioner was injured is not used exclusively by employees of 4B's Restaurant, but is accessible to customers and to the general public.

¶ 8 Under § 39-71-407(3), MCA, an employer is not responsible for an employee who is injured while traveling unless the employer furnishes the transportation or reimburses the employee for the costs of travel and that travel is on behalf of the employer, or the travel is required as part of an employee's job duties. This statute is a codification of what is commonly known as the going and coming rule.[23] Petitioner argues that § 39-71-407, MCA, does not apply because he was not injured while traveling. Petitioner claims the applicable rule is the "premises rule," a common law exception to the going and coming rule, whereby employees who are injured while they are on their employer's property at the beginning or end of their shift or on a break are covered by workers' compensation.[24] Petitioner asserts the premises rule has been recognized in Montana for more than 78 years.[25]

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[19] § 39-71-611, MCA.

[20] § 39-71-2907, MCA.

[21] Response at 2.

[22] *Id.*

[23] *See Bentz v. Liberty Northwest*, 2002 MT 221, ¶ 12, 311 Mont. 361, 57 P.3d 832.

[24] 1 *Larson's Workmen's Compensation Law* §13.01 at 13-1 (1999).

[25] Petitioner's Brief, citing *Nicholson v. Roundup Coal Mining Co.*, 79 Mont. 358, 257 P. 270 (1927).

¶ 9 Petitioner argues that Montana courts have held that once an employee reaches his employer's premises, the premises rule applies. In addition to Montana case law, Petitioner notes that *Larson's* explains that throughout the country, courts have held "with a surprising degree of unanimity" that "for an employee having fixed hours and place of work, going to and from work is covered *on the employer's premises*."[26] Petitioner adds that in the vast majority of jurisdictions which have considered the issue, courts have concluded that an employer's parking lot is part of its premises.[27]

¶ 10 Petitioner was in his employer's parking lot five minutes prior to the start of his shift when the accident occurred. Applying the premises rule to these facts, Petitioner argues that he is entitled to workers' compensation benefits.[28]

¶ 11 Respondent disagrees, arguing that the Montana Supreme Court has held that merely being on premises under the control of an employer is insufficient to assert workers' compensation coverage.[29] Respondent asserts that in *Nicholson v. Roundup Coal Mining Co.*, it was significant that the industrial accident occurred in a location not accessible to the general public, and that the mechanism of injury was under the control of the employer.[30] Likewise in *Massey v. Selensky*, Respondent claims the injured employee was under the control of his employer at the time of the accident because he was required to go to a specific location within the premises to punch his time card.[31] Respondent argues this case is distinguishable because Petitioner was injured in a parking lot which was open to the general public and Petitioner chose where and how he attempted to unload his bicycle.[32]

¶ 12 In *Nicholson*, a miner emerged from his employer's mine at the end of his shift and died of heart failure when he entered a passage in which the temperature was 80 to 100 degrees cooler than the air inside the mine. The passage contained a large fan which

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[26] 1 *Larson's Workmen's Compensation Law* § 15.11 at 4-3 to 4-5 (1993). (Emphasis in original.)(Cited in Petitioner's Brief at 5 to the 1993 version.)

[27] Petitioner's Brief at 5-6, citing 1 *Larson's Workmen's Compensation Law* § 15.42(a) at 4-104 to 4-123 (1993).

[28] Petitioner's Brief at 1.

[29] Response at 3, citing *Heath v. Montana Municipal Ins. Authority*, 1998 MT 111, 288 Mont. 463, 959 P.2d 480; *McMillen v. Arthur G. McKee and Co.*, 166 Mont. 400, 533 P.2d 1095 (1975).

[30] Response at 3.

[31] Response at 6, citing *Massey v. Selensky*, 225 Mont. 101, 731 P.2d 906 (1987) ("*Massey II*").

[32] Response at 6-7.

forced air into the mine.[33] His employer denied liability, arguing that the employee's death was due to natural causes and not an industrial accident.[34] On appeal, the employer argued further that the employee was not actually "at work" at the time of the incident.[35] The Montana Supreme Court disagreed, explaining:

> The employer has control of the ways of ingress and egress within its property and leading to and from the place of work, and it is universally held that, where an industrial accident occurs while an employee is going to or from work while on the premises of the employer and while passing over ways of egress and ingress furnished by the employer, without deviation for purposes of his own, an injury suffered by reason of the accident arose out of and in the course of his employment, as he was under the protection of, and using the things furnished him by, his employer.[36]

¶ 13 Petitioner and Respondent find different significance in the above-quoted passage. Petitioner maintains that this statement clearly shows the adoption of the premises rule in Montana.[37] Respondent draws this Court's attention to the final sentiment, arguing that in the case at hand, Petitioner was neither under the protection of, nor using things furnished by, his employer at the time of his injury.[38]

¶ 14 Aside from *Nicholson*, the courts of this state have had other occasions to consider the extent of the going and coming rule and the premises rule exception. In *Griffin v. Indus. Accident Fund*,[39] the Montana Supreme Court ruled that a fireman who died from a fall on a sidewalk maintained by the city did not suffer an accident arising out of and in the course of his employment. The court reasoned that "unless the instrumentality causing the injury, or the premises on which the injury occurred were used in connection with the actual place of work where the employer carried on the business in which the employee was engaged, there can be no recovery."[40] Petitioner argues that the premises on which he was injured

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[33] *Nicholson*, 257 P. at 272.

[34] *Id.* at 271.

[35] *Id.* at 275.

[36] *Id.* at 276 (citations omitted).

[37] Petitioner's Brief at 3-4.

[38] Response at 4-5.

[39] *Griffin v. Indus. Accident Fund*, 111 Mont. 110, 106 P.2d 346 (1940).

[40] *Id.* at 348.

were used in connection with his job, while Respondent responds that Griffin did not prevail because he was not subject to any risk or danger not shared by the public in general, and neither was Petitioner.

¶ 15 Respondent argues that in *McMillen*[41] and *Heath*,[42] the Montana Supreme Court held that injuries which occurred on premises under the control of the employer were not compensable because the specific location was not used exclusively by employees or persons conducting business with the employer and the specific location was not subject to a risk or danger not shared by the public. Having read the cases cited, this Court cannot agree that the facts of those cases match the description posited by Respondent. In *McMillen*, the injured employee was not on the premises under the control of his employer; he was in a pick-up truck owned by a co-employee and they were traveling on a public road at the time of the accident.[43] Moreover, McMillen's injuries were determined to be compensable under the going and coming rule because his employer paid for his travel to and from work.[44] In *Heath*, a city employee fell on a city-owned sidewalk on her way to work.[45] The Montana Supreme Court determined that her injury was not compensable under the Workers' Compensation Act because, although she was injured on property owned by her employer, she, like Griffin, was not at work at the time of her injury. Significantly, however, the court noted that she had not reached "the sidewalk leading into her workplace,"[46] and she admitted in her deposition that she was still traveling at the time of her injury.[47] The court relied on *Griffin*, again quoting "unless the instrumentality causing the injury, or the premises on which the injury occurred were used in connection with the actual place of work where the employer carried on the business in which the employee was engaged, there can be no recovery."[48] All three of these cases fell under the going and coming rule as none of the employees were on the premises used in connection with their actual place of work at the time of their injuries. Whether the location was also open to the general public was irrelevant to the court's respective conclusions.

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[41] *McMillen v. Arthur G. McKee and Co.*, 166 Mont. 400, 533 P.2d 1095 (1975).

[42] *Heath v. Montana Mun. Ins. Auth.*, 1998 MT 111, 288 Mont. 463, 959 P.2d 480.

[43] *McMillen*, 166 Mont. at 402-03, 533 P.2d at 1096.

[44] *Id.*, 166 Mont. at 408, 533 P.2d at 1099.

[45] *Heath*, ¶ 6.

[46] *Id.*, ¶ 20.

[47] *Id.*, ¶ 24.

[48] *Id.*, ¶ 19 (citing *Griffin*, 111 Mont. at 115, 106 P.2d at 348).

¶ 16 In both *Griffin* and *Heath*, the injured employees were employees of a governmental agency. Therefore, they were technically on the premises of their respective employers almost every time they appeared in public, even on their days off and on personal errands unconnected with their employment. In those cases, the court was compelled to draw a line between when a public employee could be considered to be on the premises and no longer "going and coming." In *Griffin*, the court determined that the employee was going and coming when he was some distance away from his actual job site, after his shift, and on his way home. In *Heath*, the court determined that the employee was going and coming when she had not yet reached the sidewalk that specifically led to her employer's location.

¶ 17 Petitioner notes that in *Massey II*,[49] the Montana Supreme Court held that a worker who was struck by a coworker's pick-up truck while he walked toward the machine shop where he worked could not sue the truck owner in tort because his exclusive remedy lay within the Workers' Compensation Act. In *Massey I*, the Montana Supreme Court held that the proper test for determining whether a coworker was immune from suit was whether that coworker was acting within the course and scope of his employment at the time the accident occurred.[50] Upon appeal after remand, in *Massey II*, the court concluded that the district court erred in applying the going and coming rule to the facts of the case. The court explained that on the morning of the accident, Massey punched his time card shortly after 6:30 a.m. and left the building where the time clock was located to walk to the machine shop where he worked. Although Massey's shift did not begin until 7:30 a.m., it was his practice to arrive early, drink coffee with his coworkers, and change into his work clothes. His employer was aware of this practice. Massey was walking towards the machine shop when he was struck by his coworker's runaway truck.[51] Noting that the coworker had parked his truck on his employer's property at the time the accident occurred, the court concluded that the parties had already arrived at work and thus the premises rule was the correct rule to apply. The court stated,

> "Compensable injuries include those sustained by employees having fixed hours and place of work who are injured while on the premises. The negligent act occurred on the employer's premises within a reasonable time before the commencement of [the truck owner's] shift. The conduct of both Massey and [the truck owner] was in accord with accepted practice at the plant, and was in accordance with their repeated and usual procedure."[52]

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[49] *Massey v. Selensky*, 225 Mont. 101, 731 P.2d 906 (1987) (*"Massey II*").

[50] *Massey v. Selensky*, 212 Mont. 68, 72, 685 P.2d 938, 940 (1984) *("Massey I*").

[51] *Massey II*, 225 Mont. at 102, 731 P.2d at 906-07.

[52] *Id.* at 103-04, 731 P.2d at 907-08 (internal citations omitted).

¶ 18 Respondent argues that the facts of *Massey* are distinguishable because Massey's employer required him to punch a clock and controlled where the clock was located. This Court does not believe this distinguishes *Massey* from the present situation. Notably absent in *Massey* is any discussion of whether Massey's employer controlled the exact path Massey took in traveling from the clock house to his job site within his employer's premises. Nor was it significant that Massey's employer was not in control of the co-employee's runaway truck. The court in *Massey* found significance in the fact that Massey was on his employer's premises at the time of his injury.

¶ 19 In the case at hand, Petitioner was in his employer's parking lot approximately five minutes before the start of his shift. He was removing his bicycle from the back of his friend's pick-up truck when he fell. As stated in *Griffin*, either the instrumentality causing the injury *or* the premises upon which the injury occurred must be used in connection with the Petitioner's actual place of work. It is of no importance that his employer did not direct where and how he was to unload his bicycle; he was on the premises used in connection with the actual place of work where his employer carried on the business in which Petitioner was engaged. He was well within the premises rule exception to the going and coming rule.

¶ 20 Respondent emphasizes that Petitioner's employer had no control over *how* Petitioner traveled to and from work. That issue is irrelevant here as Petitioner was not traveling to and from work at the time of his injury. He had, in fact, arrived on his employer's premises. Respondent concedes that Petitioner had an "arrival routine" whereby he either rode his bicycle or unloaded it from a friend's vehicle, parked the bike near a rear entrance and left it there while he walked around to the main entrance, entered the building, and had a manager unlock the rear door so that Petitioner could wheel his bicycle inside. Respondent notes that Petitioner had loaded and unloaded his bicycle many times without any problems. While Respondent disavows any control over the situation, Respondent could have instructed Petitioner not to unload his bicycle on the premises. The fact that Respondent did not exercise that control does not mean Respondent absolves itself of responsibility for an employee injured on his employer's premises. Notably, Respondent argues that in *Massey II*, because the driver of the runaway truck "park[ed] his truck *for the purpose of punching-in*" (emphasis original), he was within the scope of his employment. This Court fails to conceive how, if parking one's truck for the purpose of punching in brings one within the scope of one's employment, then parking one's bicycle for the purpose of reporting to work does not.

¶ 21 Since resolution of a summary judgment motion requires no findings of fact, but rather a consideration of legal arguments, in order to award attorney fees and a penalty,

this Court must determine that an insurer's legal position is unreasonable.[53] The Court fails to appreciate how Respondent could favorably distinguish the facts in this case from the Montana Supreme Court's decisions in *Massey I* and *II*. Instead, the Court is struck by the similar facts of these two cases, while further noting that in *Massey*, the injured worker was injured an hour before the start of his shift while on his employer's premises for his customary pre-shift socializing. In the case at hand, Petitioner was injured five minutes prior to the start of his shift, when he was on his employer's property for no reason other than to report to work. In both cases, the injured worker was on his employer's premises prior to the start of his shift and suffered an injury while in the process of reporting to work. In this case, in light of the *Massey* decisions and other case law as set forth in this decision, liability is clear. Petitioner was injured on his employer's premises, clearly placing his claim within the premises rule exception to the going and coming rule codified in § 39-71-407(3), MCA. Not only does case law in Montana support Petitioner's claim, but a leading worker's compensation treatise also explains the universality of the premises rule exception and the determination that employer-owned parking lots are part of a business's premises. Under the facts of this case, Respondent's denial of Petitioner's claim is unreasonable.

¶ 22 Pursuant to § 39-71-611(1), MCA, an insurer shall pay reasonable costs and attorney fees if it denies liability for a claim for compensation, the claim is later adjudged compensable by this Court, and in the case of attorney fees, this Court determines that the insurer's actions in denying liability were unreasonable. Petitioner is therefore entitled to his attorney fees.

¶ 23 Petitioner further requests a penalty award pursuant to § 39-71-2907, MCA. Where either the material facts or the law applicable to a case is reasonably debatable, the parties are entitled to present the case to this Court and no penalty shall attach to that presentation.[54] In the case at hand, there is no reasonable debate as to the law applicable to the case. Due to the insurer's unreasonable denial of liability, Petitioner is entitled to a penalty award of 20% of the full amount of benefits due.

ORDER

¶ 24 Petitioner's injury is compensable under his employer's workers' compensation coverage and his motion for summary judgment is **GRANTED**.

¶ 25 Petitioner's request for costs and attorney fees pursuant to § 39-71-611, MCA, is **GRANTED**.

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[53] *Pittsley v. State Comp. Ins. Fund*, 1998 MTWCC 84, ¶ 9; Response at 6, citing *Massey II,* 225 Mont. at 104, 731 P.2d at 908.

[54] *Briney v. Pac. Employers Ins. Co.*, 1997 MTWCC 55.

¶ 26 Petitioner's request for a penalty award pursuant to § 39-71-2907, MCA, is **GRANTED**.

¶ 27 Respondent's cross-motion for summary judgment is **DENIED**.

¶ 28 This Order is certified as final for purposes of appeal.

DATED in Helena, Montana, this 1st day of December, 2006.

(SEAL)

/s/ James Jeremiah Shea
JUDGE

c: David M. Sandler
Larry W. Jones
Submitted: April 14, 2006