

Montana State Legislature

Exhibit Number: 28

There are 2 documents

1. Workers' Compensation cases due to Tobacco.

a. URL Site

<http://medicolegal.tripod.com/compcases.htm>

2. Booklet:

Montana State Fund

*Understanding Montana's Workers'
Compensation System*

This exhibit is a booklet; which cannot be scanned; to aid in your research a portion of this exhibit has been scanned, front and back cover. The original exhibit is on file at the Montana Historical Society and may be viewed there.

***Puffin v General Electric Co*, 132 Conn 279; 43 A2d 746 (12 July 1945) (worker compensation case)**

***McLellan v International Paper Co*, 294 NY 967; 63 NE2d 597 (4 Oct 1945). SCB: 269 App Div 800; 55 NYS2d 56**

***Bradford's Case*, 319 Mass 621; 67 NE2d 149 (29 May 1946) (worker's compensation case, where by employer rule, "smoking was not permitted inside the building")**

***McLellan v International Paper Co*, 271 App Div 857; 66 NYS2d 3 (20 Nov 1946). SCB: 294 NY 967; 63 NE2d 597**

***Waskevitz v Clifton Paper Board Co*, 7 NJ Super 1; 71 A2d 646 (1 March 1950) (worker's compensation job smoking case)**

***Hill-Luthy Co v Industrial Commission*, 411 Ill 201; 103 NE 2d 605 (24 Jan 1952) (employee smoking case)**

***Secor v Penn Service Garage*, 35 NJ Super 59; 113 A2d 177 (1 April 1955) (worker compensation case, employee smoked around gasoline)**

***Secor v Penn Service Garage*, 19 NJ 315; 117 A2d 12 (27 Sep 1955). SCB: 35 NJ Super 59; 113 A2d 177**

***Wiseman v Industrial Accident Commission*, 291 P2d 180 (Cal App, 14 Dec 1955)**

***Wiseman v Industrial Accident Commission*, 46 Cal 2d 570; 297 P2d 649 (29 May 1956). SCB: 291 P2d 180**

***Crotty v Driver Harris Co*, 45 NJ Super 75; 131 A2d 578 (22 April 1957) (worker compensation job smoking case)**

***Crotty v Driver Harris Co*, 49 NJ Super 60; 139 A2d 126 (17 Feb 1958). SCB: 45 NJ Super 75; 131 A2d 578**

***Tobin v W. T. Grant Co*, 17 Misc 2d 517; 191 NYS 2d 540 (23 Jan 1959) (worker's compensation case)**

***Tobin v W. T. Grant Co*, 8 App Div 2d 723; 187 NYS2d 989 (4 May 1959). SCB: 17 Misc 2d 517; 191 NYS 2d 540**

***Tobin v W. T. Grant Co*, 9 App Div 2d 691; 191 NYS2d 1010 (19 Oct 1959). SCB: 8 App Div 2d 723; 187 NYS2d 989**

***Clarke v Coats & Clarke, Inc*, 97 RI 163; 196 A2d 423 (10 Jan 1964) (worker**

EXHIBIT 28
DATE 1-16-05

Providing
coverage
for Montanans
since 1915.



Understanding Montana's Workers' Compensation System

Glossary of Workers' Compensation Terms

Average Weekly Wage: A term generally used in workers' compensation laws. It is the basis for determining weekly benefits under such laws.

Class Codes: A system of insurance risk classification based on industrial or occupational categories, supported by the National Council on Compensation Insurance and in use in about 40 states, including Montana.

Exclusive Remedy: The premise on which the Workers' Compensation system is based: workers gave up the right to sue the employer in exchange for wage loss and medical benefits as provided under state law.

Experience Modification Factor: An adjustment to modified Manual Premium, calculated by an advisory organization (also known as rating bureaus) such as NCCI, based on historic loss and payroll data of a particular insured.

Impairment: A medical term that is sometimes confused with disability. Impairment is what is physically impaired with an individual and is a means where the medical care provider assigns a numerical rating for whatever type of bodily function has been impaired.

Incurred Losses: The total for both the reserve and paid amounts for claims.

Indemnity Benefits: Wage loss or other benefits paid to an injured employee, excluding medical benefits.

Independent Medical Examination (IME): An examination by a physician in order to obtain an evaluation of the employee's physical condition or the cause of the injury or disability.

Manual Premium: Workers' Compensation premium calculated by multiplying payrolls by appropriate rates, before application of Experience Modifier, Schedule Rating, Premium Discount, or other premium programs.

Maximum Medical Improvement Status (MMI): A term used by medical providers to indicate when a patient has attained a point in the healing process where further material improvement would not be reasonably expected from primary medical treatment.

Medical Only Claims (MO): Claims with only medical bills and no indemnity benefits owed or paid.

National Council on Compensation Insurance (NCCI): An association of workers' compensation insurers that serves as the workers' compensation rating organization in about two-thirds of the states. The group establishes standards for use in ratemaking, develops policy forms, collects statistics, and provides statistical support and services. NCCI is a private organization, not connected with government.

New Fund: Claims occurring on or after July 1, 1990 and the responsibility of Montana State Fund.

Occupational Disease (OD): An employment-related medical condition that is caused by events occurring on more than a single day or work shift.

Old Fund: Claims occurring before July 1, 1990 and the responsibility of the state.

Permanent Partial Disability (PPD): A physical condition in which a worker, after reaching maximum medical healing, has a permanent impairment established by objective medical findings; is able to return to work in some capacity but the permanent impairment impedes the worker's ability to work; and has an actual wage loss as a result of the injury.

Permanent Total Disability (PTD): A physical condition resulting from injury after a worker reaches maximum medical healing, in which a worker does not have a reasonable prospect of physically performing regular employment. Regular employment means work on a recurring basis performed for remuneration in a trade, business, profession, or other occupation in this state. Lack of immediate job openings is not a factor to be considered in determining if a worker is permanently totally disabled.

Rehabilitation Benefits: Benefits provided to an injured employee including bi-weekly compensation benefits, tuition, fees, books, retraining expenses and travel and relocation expenses.

Reserves: The estimated value of payout expected over the life of a claim.

Social Security Disability Benefits (SSDI): SSDI benefits are payable to disabled individuals through the Social Security Administration.

Surplus: A contingent liability fund that is intended to assure that the insurer will be able to fulfill its obligations to policyholders and injured employees. When an insurer reports a surplus, they are not talking about unneeded or excess funds.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, in which a worker, prior to maximum healing is temporarily unable to return to the position held at the time of injury because of a medically determined physical restriction; returns to work in a modified or alternative employment; and suffers a partial wage loss.

Temporary Total Disability (TTD): A physical condition resulting from an injury that results in total loss of wages and exists until the injured worker reaches maximum medical healing.



P.O. Box 4759
Helena, MT 59604-4759
800-332-6102
(406) 444-6500
Fax: (406) 444-5693
montanastatefund.com