IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2011 MTWCC 29

WCC No. 2011-2748

CHRISTOPHER BJORGUM

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

Summary: Petitioner suffered a cerebellar hemorrhage nearly two years after he was seriously injured in a work-related motor vehicle accident. He alleges that the industrial accident caused his hemorrhage and that blood-thinning medication which he took to treat his work-related injuries increased the hemorrhage's severity. Respondent denied liability for the cerebellar hemorrhage, contending that it is not related to Petitioner's industrial accident. Petitioner further contends that Respondent unreasonably denied liability and that it should be held subject to a penalty and payment of his attorney fees.

Held: Petitioner's cerebellar hemorrhage occurred due to the rupture of an arteriovenous malformation which developed as a result of his industrial accident. Respondent is therefore liable for the condition. Although Respondent denied liability, it was not unreasonable as Petitioner's treating physician did not offer a definitive opinion regarding the cause of Petitioner's condition and other medical experts offered conflicting opinions.

Topics:

> **Constitutions, Statutes, Regulations, and Rules: Montana Rules of Evidence – by Section: RULE 103.** Under M. R. Evid. 103(a)(1), an objection is timely if it is made as soon as its grounds become apparent. Petitioner's objection was not timely where he did not make it until after the close of evidence nearly two weeks later.

Evidence: Objections – Timeliness. Under M. R. Evid. 103(a)(1), an objection is timely if it is made as soon as its grounds become apparent. Petitioner's objection was not timely where he did not make it until after the close of evidence nearly two weeks later.

Physicians: Conflicting Evidence. Although the conflicting testimony of two physicians was credible, one physician's testimony was more persuasive and therefore entitled to greater weight. The less persuasive physician interpreted a CT scan differently than others who examined it, and gave opinion testimony at odds with peer-reviewed publications. The more persuasive physician had greater credentials including an extensive list of published articles.

Attorney Fees: Cases Denied. The Court did not find Respondent unreasonable in denying Petitioner's claim and therefore not liable for attorney fees where Petitioner's case was medically complex, his treating physician did not offer a clear causation opinion, and other medical experts offered conflicting opinions.

¶ 1 The trial in this matter began on September 2, 2011, and resumed and concluded on September 15, 2011, at the Workers' Compensation Court in Helena, Montana. Petitioner Christopher Bjorgum was present for part of the proceedings on September 2, 2011, and was represented by Rex Palmer. Kevin Braun represented Respondent Montana State Fund (State Fund). Claims adjuster Teresa Medina also attended on behalf of State Fund.

¶ 2 Exhibits: I admitted Exhibits 1 through 36 without objection. I sustained State Fund's objection of untimeliness regarding Exhibits 37 through 40 and excluded them.

¶ 3 Witnesses and Depositions: On September 2, 2011, Bjorgum, Misty Bjorgum, John I. Moseley, M.D., and James M. Blue, M.D., were sworn and testified. On September 15, 2011, Medina was sworn and testified.

¶ 4 Issues Presented: The Pretrial Order sets forth the following issues:[1]

Issue One: Petitioner's entitlement to an order stating that Respondent is liable for Petitioner's brain bleed including related medical care and other related benefits.

[1] Pretrial Order at 4, Docket Item No. 17.

Issue Two: Petitioner's entitlement to a penalty, reasonable attorney fees, and costs.

FINDINGS OF FACT

¶ 5 On November 16, 2007, Bjorgum suffered an injury arising out of and in the course of his employment with Montana State Prison, located in Deer Lodge, Montana. State Fund accepted liability and paid certain medical and wage-loss benefits. Bjorgum has not reached maximum medical improvement (MMI) for the conditions for which State Fund has accepted liability.[2]

¶ 6 Bjorgum testified at trial. I found him to be a credible witness. Bjorgum worked as a guard in the Deer Lodge prison facility for six and a half years. On November 16, 2007, Bjorgum and some coworkers were travelling to work on a bus which was involved in a rollover accident. Among other injuries, Bjorgum hit his head on something during the accident. Bjorgum was ejected from the vehicle and he lost consciousness.[3]

¶ 7 A report of a head CT scan taken on November 16, 2007, found:

> [N]o evidence of intercranial hemorrhage, mass, or infarct in a major vascular distribution. No focal brain parenchymal abnormalities are definitely identified. While there are no extraaxial fluid collections, mass effect, or midline shift, there is a tiny focal area of increase attenuation noted within the posterior aspect of the right anterior fissure anterior to the corpus callosum . . . likely . . . secondary to the anterior cerebral arteries. All cerebrospinal fluid spaces are within normal limits.

The radiologist opined that the CT scan was negative for evidence of intercranial injury or fracture.[4]

¶ 8 Bjorgum has not returned to work since the bus accident. State Fund has paid his wage-loss benefits and other work-related medical expenses. State Fund has not accepted liability nor paid medical expenses for the cerebellar hemorrhage that is the subject of this litigation.[5]

---

[2] Pretrial Order at 1-3.

[3] Trial Test.

[4] Ex. 27 at 15.

[5] Trial Test.

¶ 9 Bjorgum's wife Misty testified at trial. I found her to be a credible witness. Misty testified that on the day of the bus accident, she saw Bjorgum in the emergency room as he waited for surgery for a femur injury. She observed a circular indentation on his head. Later, after discussing the indentation with other people, she concluded that it was likely caused by his head hitting a reading light above his bus seat.[6]

¶ 10 Misty testified that Bjorgum was "fuzzy-headed" when she spoke to him in the emergency room. Later that night or sometime the following day, Bjorgum was more oriented and had some memories of being transported from the accident scene.[7]

¶ 11 On September 19, 2009, Bjorgum was admitted to Benefis Health System in Great Falls. Bjorgum had awoken at 3 a.m. with a severe headache. His condition rapidly deteriorated. At the time of his admission to Benefis, he was in a coma following a cerebellar hemorrhage.[8] John G. VanGilder, M.D., performed a posterior fossa craniectomy with evacuation of hematoma and removal of abnormal tissue. Dr. VanGilder noted an abnormal area in Bjorgum's cerebellum that contained multiple arteries and veins. Dr. VanGilder evacuated a hematoma down to the fourth ventricle.[9]

¶ 12 On October 22, 2009, Dr. VanGilder discharged Bjorgum from Benefis. Dr. VanGilder noted that a post-operative angiogram indicated that Bjorgum had a small residual arteriovenous malformation (AVM) in the cerebellum. Dr. VanGilder stated that this AVM would be treated at a future time, either with an additional surgery or with "cyberknife" radiotherapy.[10]

¶ 13 On April 4, 2011, Dr. VanGilder wrote a letter to State Fund expressing his medical opinions about Bjorgum's case. Dr. VanGilder stated that although AVMs are typically congenital, they can also be traumatic in nature. Dr. VanGilder stated that he "suspected" Bjorgum's AVM was congenital, but he could not state with certainty whether it might have been traumatic in nature.[11]

¶ 14 John I. Moseley, M.D., testified at trial. I found him to be a credible witness. Dr. Moseley is a board-certified neurosurgeon. Dr. Moseley was an associate professor of neurosurgery at the University of California Los Angeles and he has published

---

[6] Trial Test.

[7] Trial Test.

[8] Ex. 21 at 7-8.

[9] Ex. 21 at 10-11.

[10] Ex. 21 at 30.

[11] Ex. 21 at 31.

numerous articles. Among his other credentials, Dr. Moseley helped run a six-year study called the National Brain Death Study.[12]

¶ 15 Dr. Moseley has an active medical license in Montana and has a "retired-status" license in three other states. Dr. Moseley estimated that he has performed between 6,000 and 7,000 surgeries during his career, and that approximately 25 to 30 percent of those were brain surgeries. Dr. Moseley estimated that he has performed 25 to 30 AVM surgeries.[13]

¶ 16 Dr. Moseley explained that an "AVM" is an arteriovenous malformation or fistula and occurs when an artery goes directly into a vein without a capillary watershed screening process. Dr. Moseley testified that an AVM and a fistula are the same thing; whether a doctor would consider a condition to be a malformation or a fistula depends on the doctor's training and experience. In an AVM, blood vessels lose their capillary screen either as a congenital condition or through trauma. Without the capillary filter, the force of the arterial blood is greater than veins are designed to handle. The vein swells from the force of the arterial blood, forming an AVM. The wall of the artery and of the vein is more fragile in an AVM and the swelling and bleeding from an AVM can damage surrounding brain tissue.[14]

¶ 17 Dr. Moseley testified that typically, congenital AVMs leak early in life as a child's head is growing and as the child engages in physical activities. Dr. Moseley testified that common periods for congenital AVMs to leak include 8- to 10-year-olds and adults under 30 years of age. Dr. Moseley further testified that traumatic AVMs are commonly caused by a head injury. He stated that in adults, the brain does not heal after a laceration and if arteries and veins tear, they may reconnect with scar tissue, which becomes an AVM. Dr. Moseley further stated that an AVM can take some time to form after a head injury.[15]

¶ 18 Dr. Moseley conducted an independent medical examination (IME) of Bjorgum on September 21, 2010. Dr. Moseley reviewed a large quantity of medical records concerning Bjorgum's case, and he met and interviewed Bjorgum and Misty. Based on his investigation, Dr. Moseley opined that the bus accident either caused Bjorgum's AVM or enlarged a preexisting AVM. Dr. Moseley testified that either Bjorgum's ejection

[12] Trial Test.

[13] Trial Test.

[14] Trial Test.

[15] Trial Test.

from the bus or impact with the reading light above his seat could cause impacts consistent with the type which would create or aggravate an AVM.[16]

¶ 19 Dr. Moseley wrote his IME report in the form of a letter to Bjorgum's counsel on November 22, 2010.[17] In the letter, Dr. Moseley reported that Bjorgum suffered several falls after his industrial accident, but except for the initial industrial accident, he never hit his head.[18]

¶ 20 Regarding causation, Dr. Moseley opined:

> I believe it is possible he may have had a small AVM which could be congenital but there is no evidence for this. He had an unenhanced CT scan of his brain right after the significant trauma of the bus roll-over. There was no suspicion that he had an AVM evolving. In my opinion, it is more probable than not Mr. Bjorgum developed an evolving posttraumatic AVM that was the result of the injuries he sustained in the bus roll-over. The AVM subsequently bled, leading to his current problems. He was placed on an anticoagulant for appropriate reasons because of his leg fracture and pelvic fracture. The anticoagulants increase the risk of an AVM bleeding and would likely contribute to the extent of bleeding after hemorrhage began. This would be the case whether the AVM was pre- or posttraumatic in origin.[19]

¶ 21 Dr. Moseley testified that nothing in Bjorgum's medical history suggested that he had an AVM prior to the bus accident. He did not suffer from headaches or other complaints that are typically associated with AVMs. Dr. Moseley opined that the bus accident initiated the abnormalities which caused Bjorgum to develop an AVM. He opined that it would be "extremely unusual" for someone of Bjorgum's age and activity level to have had an AVM of that size with no previous complaints of headache or problems with coordination.[20]

¶ 22 Dr. Moseley further noted that while AVMs are often thought to be congenital, the Journal of Neurology, a peer-reviewed journal, reported the case of a three-year-old girl

---

[16] Trial Test.

[17] Ex. 19.

[18] Ex. 19 at 1-2.

[19] Ex. 19 at 4.

[20] Trial Test.

who suffered a minor head injury and subsequently developed an AVM.[21] Dr. Moseley testified that AVMs can occur after head injuries, but they take time to develop.[22]

¶ 23 Dr. Moseley further noted:

> He was placed, because of his lower extremity trauma, on an anticoagulant, trental, which is a blood thinning drug for prevention of potential embolism to the chest area. He was placed on this about 3 months before he had the subarachnoid hemorrhage.[23]

¶ 24 Dr. Moseley testified that Bjorgum was on three drugs which he considers to be "anticoagulants" at the time of his cerebellar hemorrhage. Dr. Moseley stated that he considers any drug which acts as a blood thinner to be an "anticoagulant." However, Trental makes blood cells "slipperier," which is a different function than drugs such as Heparin which prevent red blood cells from clotting. Dr. Moseley testified that he uses the term "anticoagulant" to include drugs such as Trental.[24]

¶ 25 Dr. Moseley testified that if a person who takes multiple medications which individually cause an increased risk of bleeding events, the risk is increased and may include a synergistic effect. Dr. Moseley opined that Bjorgum's use of Cymbalta, Neurontin, and Pentoxifylline would have decreased Bjorgum's ability to stop blood leakage, and that the use of these medications contributed to his September 19, 2009, cerebellar hemorrhage. Dr. Moseley opined that Bjorgum's medications did not cause the AVM, but they contributed to the AVM's ability to leak.[25]

¶ 26 Dr. Moseley testified that he was unable to identify what Dr. Blue identified as an AVM on a scan of Bjorgum's brain dated November 16, 2007. Dr. Moseley testified that he cannot tell what caused the "signal change" in that area of Bjorgum's brain because in an unenhanced CT scan, vascular tissue is not visible. Dr. Moseley stated that at the time of the CT scan, the radiologist reported the result as normal, and he agrees with the radiologist's interpretation.[26]

¶ 27 James M. Blue, M.D., testified at trial. I found him to be a credible witness. Dr. Blue resides in Seattle, Washington. For 22 years, Dr. Blue had a general

---

[21] *See* Ex. 17.

[22] Trial Test.

[23] Ex. 19 at 2.

[24] Trial Test.

[25] Trial Test.

[26] Trial Test.

neurosurgical practice. For the past three years, he has been the Director of Cranial Surgery at the Providence Hospital System in Everett, Washington. He is licensed to practice in Washington and is board-certified.[27]

¶ 28 On July 19, 2011, Dr. Blue provided his opinions about Bjorgum's case to State Fund. Dr. Blue reviewed Bjorgum's medical records. However, he did not have the opportunity to review either Bjorgum's November 16, 2007, or September 19, 2009, CT scans.[28] Dr. Blue opined that Bjorgum's AVM was a classic congenital cerebellar malformation, not related to his industrial accident. Dr. Blue contended that Dr. Moseley had confused AVM with post-traumatic arteriovenous fistulas. Dr. Blue stated that Bjorgum apparently did not have significant head trauma or a skull fracture or other injury visible on his post-accident CT scan.[29] Dr. Blue further opined that Bjorgum was at risk of an AVM bleed regardless of any medications he may have been on, and that the medications Bjorgum was taking at the time of his AVM bleed did not cause the hemorrhage.[30]

¶ 29 Dr. Blue testified that an AVM and a fistula are different conditions. A "malformation" is something which never formed properly while a "fistula" is traumatic in nature. Dr. Blue testified that he believes AVMs are always congenital. AVMs typically have multiple arteries feeding into the malformation, and contain a nidus. Fistulas contain a single artery. Dr. Blue testified that in Bjorgum's case, an angiogram revealed two very large arteries feeding into his malformation. Dr. Blue stated that while he believes some neurosurgeons may look at Bjorgum's condition and conclude that his abnormality is a traumatic arteriovenous fistula with multiple feeders, such a condition simply does not occur.[31]

¶ 30 Dr. Blue stated that in investigating Bjorgum's case, he reviewed various medical records, including treatment records following the bus accident up through the cerebellar hemorrhage and beyond. Dr. Blue also reviewed Dr. Moseley's IME report. Dr. Blue concluded that Bjorgum's AVM was a classic congenital vermian AVM which Bjorgum would have had since birth.[32]

---

[27] Trial Test.

[28] Ex. 31 at 4, 6.

[29] Ex. 31 at 7.

[30] Ex. 31 at 8.

[31] Trial Test.

[32] Trial Test.

¶ 31 On July 26, 2011, State Fund received a letter from Dr. Blue which stated that he had reviewed Bjorgum's November 16, 2007, CT scan and he saw no evidence of an acute cranial injury. Dr. Blue further stated:

> More importantly, there is a mass in the roof of the fourth ventricle primarily on the right that is best appreciated on image 32 of 80. This is the epicenter of Mr. Bjorgum's subsequent hemorrhage and the location of the pathological findings by the neurosurgeon at the time of his emergency craniectomy. This would in fact prove that Mr. Bjorgum's arteriovenous malformation was congenital and proceeded [sic] his rollover accident. This finding is not consistent with a post traumatic arteriovenous fistula.[33]

¶ 32 Dr. Blue testified that the CT scan taken on the day of the bus accident shows an asymmetric area in the fourth ventricle. He contends that this asymmetry is the AVM. Dr. Blue acknowledged that the same area appears asymmetrical in the other ventricles scanned and that these asymmetries can be attributed to the scan being taken at a slight angle. He testified that the radiologist probably read this CT scan as normal because he would have assumed that the asymmetry was due to the scan angle. Dr. Blue concluded that the asymmetry visible on the scan of the fourth ventricle is larger than the asymmetry present on the other scans and therefore shows the AVM.[34]

¶ 33 Dr. Blue testified that a cerebrovascular incident would be a rare and unusual side effect from Neurontin and he opined that, more probably than not, Neurontin did not cause or contribute to Bjorgum's intercranial hemorrhage. He further stated that he did not believe Cymbalta contributed to or caused Bjorgum's AVM bleeding. Dr. Blue further testified that Trental is not an anticoagulant and does not have the properties which would prevent blood from clotting; however, it is contraindicated for patients using anticoagulants. Dr. Blue opined that Trental did not cause Bjorgum's AVM to bleed.[35]

¶ 34 Dr. Blue testified that an angiogram indicated that Bjorgum's AVM had arterial fill from both sides, which indicated that this was a malformation and not a traumatic fistula. Dr. Blue opined that Bjorgum's AVM was present at the time of the bus accident, and that the bus accident did not create the AVM. He further opined that Bjorgum's medications did not cause the AVM to rupture.[36]

---

[33] Ex. 31 at 10.

[34] Trial Test.

[35] Trial Test.

[36] Trial Test.

¶ 35 Dr. Blue stated that he disagrees with Dr. Moseley's conclusions in his IME report. Dr. Blue disagreed that Bjorgum developed a post-traumatic AVM, and he disagrees that any of the medications Bjorgum was taking at the time of his AVM rupture were anticoagulants. Since Dr. Blue does not believe any of Bjorgum's medications were anticoagulants, he further disagreed with Dr. Moseley's conclusion that these medications increased the risk of an AVM rupture and did not contribute to the extent of the bleeding.[37]

¶ 36 Teresa Medina, a claims examiner with State Fund, testified at trial. I found her to be a credible witness. Medina testified that she is responsible for making decisions regarding payments and medical authorizations on Bjorgum's claim and she is the claims adjuster who denied the compensability of Bjorgum's cerebellar hemorrhage.[38]

CONCLUSIONS OF LAW

¶ 37 This case is governed by the 2007 version of the Montana Workers' Compensation Act since that was the law in effect at the time of Bjorgum's industrial accident.[39]

¶ 38 Bjorgum bears the burden of proving by a preponderance of the evidence that he is entitled to the benefits he seeks.[40] Bjorgum has met his burden.

Bjorgum's Motion to Strike

¶ 39 Prior to making his closing argument at trial, Bjorgum's counsel moved to strike Dr. Blue's testimony regarding whether Trental is an anticoagulant. State Fund's counsel objected, arguing that Bjorgum's counsel elicited the testimony via his examination of the witness. State Fund's counsel further argued that the motion to strike was untimely as counsel did not object to Dr. Blue's testimony at the time. I reserved ruling on the motion at that time, pending review of the pertinent portions of the transcript. Having since had the opportunity to review the transcript, I note that while State Fund's counsel elicited the testimony regarding whether Trental is an anticoagulant, Bjorgum's counsel made no contemporaneous objection to the testimony. On cross-examination, Bjorgum's counsel questioned Dr. Blue extensively about whether Trental has anticoagulative properties.

---

[37] Trial Test.

[38] Trial Test.

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

[40] *Ricks v. Teslow Consol.,* 162 Mont. 469, 512 P.2d 1304 (1973); *Dumont v. Wickens Bros. Constr. Co.*, 183 Mont. 190, 598 P.2d 1099 (1979).

¶ 40 M. R. Evid. 103(a)(1) requires an objecting party to make a timely objection and state specific grounds for the objection. To be timely, the objection must be made as soon as the grounds for the objection become apparent.[41] The time for Bjorgum's counsel to object would have been on September 2, 2011, when State Fund's counsel asked Dr. Blue whether Trental is an anticoagulant; objecting on September 15, 2011, after the close of evidence is not timely. Bjorgum's motion to strike is denied.

ISSUE ONE: Petitioner's entitlement to an order stating that Respondent is liable for Petitioner's brain bleed including related medical care and other related benefits.

¶ 41 Causation is an essential element to an entitlement to benefits and the claimant has the burden of proving a causal connection by a preponderance of the evidence.[42] Under § 39-71-407(2), MCA, an insurer is liable for an injury if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that the claimed injury either occurred or aggravated a preexisting condition. Section 39-71-119(5)(a), MCA, provides in pertinent part, that a cerebrovascular accident suffered by a worker is an injury only if the accident is the primary cause of the physical condition in relation to other factors contributing to the physical condition. Section 39-71-119(5)(b), MCA, defines "primary cause" as a cause that, with a reasonable degree of medical certainty, is responsible for more than 50% of the physical condition.

¶ 42 Prior to trial, Bjorgum argued that State Fund should be precluded from arguing the standard of proof found in § 39-71-119(5)(b), MCA, because it failed to timely raise the statute as an affirmative defense. State Fund responded that the statute is not an affirmative defense, but rather is simply a statement of the burden of proof which a claimant must meet in a case involving one of the specific conditions set forth in the statute. In the present case, simply put, Bjorgum's AVM either was or was not caused by his industrial accident. Since it is an either/or proposition, the application of § 39-71-119(5)(b), MCA, is a non-issue.

¶ 43 At the outset, I note that it is undisputed that Bjorgum struck his head during the November 16, 2007, accident and that he lost consciousness at the accident scene, followed by a period of what his wife described as "fuzzy-headedness." Although Dr. Blue did not find Bjorgum's head trauma to be "significant," it is clear that Bjorgum suffered some degree of head trauma during the accident. As set forth above, I found the testimony of both Dr. Moseley and Dr. Blue to be credible. However, I found

---

[41] *Kizer v. Semitool, Inc.*, 251 Mont. 199, 207, 824 P.2d 229, 234 (1991).

[42] *Grenz v. Fire and Cas. of Conn.*, 250 Mont. 373, 380, 820 P.2d 742, 746 (1991). (Citation omitted.)

Dr. Moseley's testimony more persuasive. I am not convinced by Dr. Blue's assertion that the asymmetry visible on Bjorgum's November 16, 2007, CT scan is attributable to the scan angle on some scans, but not on the particular scan which shows the area of Bjorgum's cerebellum where he experienced a hemorrhage on September 19, 2009. Both the radiologist who interpreted the CT scan at the time and Dr. Moseley interpreted the image as normal. Furthermore, although Dr. Blue testified that AVMs are always congenital, Bjorgum presented evidence from peer-reviewed publications which dispute this assertion. Finally, although Dr. Blue's credentials were impressive, I found Dr. Moseley's credentials, including an extensive list of published articles, to entitle his opinion to greater weight than Dr. Blue's opinion. I therefore conclude that Bjorgum's AVM was caused by his November 16, 2007, industrial accident and State Fund is liable for the condition.

¶ 44 Since I have concluded that State Fund is liable for Bjorgum's AVM condition, I need not reach the issue of whether Bjorgum's prescription medication increased the severity of his cerebellar hemorrhage.

ISSUE TWO: Petitioner's entitlement to a penalty, reasonable attorney fees, and costs.

¶ 45 As the prevailing party, Bjorgum is entitled to his costs.[43] However, to be entitled to a penalty and attorney fees, Bjorgum must prove that State Fund acted unreasonably in denying his claim.[44] Given the medical complexity of Bjorgum's case, the lack of a clear causation opinion from Bjorgum's treating physician, and the conflicting opinions of the medical experts in this case, I do not believe State Fund was unreasonable in denying Bjorgum's claim. I conclude Bjorgum is not entitled to a penalty or attorney fees in this matter.

JUDGMENT

¶ 46 State Fund is liable for Bjorgum's brain bleed including related medical care and other related benefits.

¶ 47 Bjorgum is entitled to his costs.

¶ 48 Bjorgum is not entitled to a penalty or attorney fees.

¶ 49 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.

---

[43] § 39-71-611, MCA.

[44] *See* §§ 39-71-611, -2907, MCA.

DATED in Helena, Montana, this 30th day of December, 2011.

(SEAL)

/s/ JAMES JEREMIAH SHEA
JUDGE

c: Rex Palmer
Kevin Braun
Submitted: September 15, 2011