

MARK D. MEYER, Legal Counsel
Special Assistant Attorney General
MONTANA STATE FUND
P.O. Box 4759
Helena, Montana 59604-4759
Telephone: (406) 495-5276
Facsimile: (406) 495-5023
Email: Mark.Meyer@mt.gov

Attorneys for Appellee

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 21-0120

MICHAEL L. MILLER,

Petitioner and Appellant,

v.

MONTANA STATE FUND,

Respondent and Appellee.

**APPELLEE MONTANA STATE FUND'S UNOPPOSED MOTION TO
WAIVE MANDATORY APPELLATE MEDIATION**

Montana State Fund (hereinafter "State Fund") moves this Court to waive the mandatory appellate mediation process.

Appellant Michael Miller has been consulted regarding the present motion and has advised he has no opposition to the motion and joins in the same.

ARGUMENT

I. Rule 7

All appeals from the Montana Workers' Compensation Court are subject to the provisions of Mont. R. App. P. Rule 7. *See*, Mont. R. App. P. 7(2)(a). While the present action falls within the scope of Mont. R. App. P. 7(2)(a), State Fund asserts the case is not a proper fit under the rule.

II. Mandatory mediation would not productive or cost effective to the parties.

Appellant Michael Miller instituted the present appeal as a *pro se* litigant. Mr. Miller has advised the undersigned that complying with the mandatory mediation process would be a financial hardship. There were no settlement discussions between the parties during the proceedings before the Workers' Compensation Court and State Fund does not anticipate making a settlement offer to resolve the present appeal.

In light of the above, the mandatory mediation process will not help the parties avoid additional legal expense. Rather, the process will increase the time, resources and expense to the parties and the Court in what the parties anticipate will be a futile effort. In short, this is a case that "cannot be resolved between the parties." Mont. R. App. P. Rule 7(1)(c). Mr. Miller and counsel for State Fund have discussed the mediation requirement and agree to waive the process. As such, this Court should waive mandatory mediation.

Respectfully submitted this 26th day of March, 2021.

MONTANA STATE FUND

By: /s/ Mark D. Meyer
MARK D. MEYER, Legal Counsel
Special Assistant Attorney General
Attorney for Respondent / Appellee

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing UNOPPOSED MOTION TO WAIVE MANDATORY APPELLATE MEDIATION with the Clerk of the Montana Supreme Court; and that I have also served true and accurate copies of the foregoing upon the following via U.S. Mail, postage pre-paid and addressed as follows:

Michael Miller
P.O. Box 383
White Sulphur Springs, MT 59645
Email: amymiller5059@gmail.com
Delivered via *E-Mail & U.S. Mail*

Dated this 26th day of March, 2021.

/s/ Melissa Sturtz-Haab
Melissa Sturtz-Haab, Paralegal
Montana State Fund
P.O. Box 4759
Helena, MT 59604-4759