

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Lori Hvizda Ward,
Objectors,

v.

Linda White and Rich Guggenheim,
Designated Representatives of Initiative 2023-2024 #160.

**NOTICE OF SUPPLEMENTAL AUTHORITY TO
MOTION FOR REHEARING ON INITIATIVE 2023-2024 #160**

Through legal counsel, Lori Hvizda Ward, registered elector of Larimer County and movant for a rehearing in this matter, hereby files this notice of supplemental authority to motion for rehearing on Initiative 2023-2024 #160.

Please take notice of the attached supplemental legal authority (*Casa Bonita Restaurant v. Colo. Indus. Comm'n*, 677 P.2d 344 (Colo. App. 1983).that highlights the binding nature of the definition of “minor” in C.R.S. § 2-4-401(6), absent express definitional language in a governing statute to the contrary.

Respectfully submitted this 4th day of March, 2024.

RECHT KORNFELD, P.C.

s/ Mark G. Grueskin

Mark Grueskin

David Beller

Nate Bruggeman

1600 Stout Street, Suite 1400

Denver, CO 80202

Phone: 303-573-1900

Email: mark@rklawpc.com

david@rklawpc.com

nate@rklawpc.com

CERTIFICATE OF SERVICE

I, Erin Mohr, hereby affirm that a true and accurate copy of the **NOTICE OF SUPPLEMENTAL AUTHORITY TO MOTION FOR REHEARING ON INITIATIVE 2023-2024 #160** was sent this day, March 4, 2024, via first-class mail, postage paid to:

Linda White
22931 E. Del Norte Circle
Aurora, CO 80016

Rich Guggenheim
755 E. 19th Ave. Apt. 339
Denver, CO 80203

s/ Erin Mohr _____



User Name: Mark Grueskin

Date and Time: Wednesday, February 28, 2024 4:23:00PM MST

Job Number: 218281306

Document (1)

1. [Casa Bonita Restaurant v. Industrial Com. of Colorado, 677 P.2d 344](#)

Client/Matter: -None-



Cited

As of: February 28, 2024 11:23 PM Z

Casa Bonita Restaurant v. Industrial Com. of Colorado

Court of Appeals of Colorado, Division Three

March 31, 1983

No. 82CA0890

Reporter

677 P.2d 344 *; 1983 Colo. App. LEXIS 1123 **

CASA BONITA RESTAURANT, and Liberty Mutual Insurance Company, Petitioners, v. INDUSTRIAL COMMISSION OF THE STATE OF COLORADO, Director, Department of Labor and Employment, Division of Labor, State of Colorado, and Deborah D. Penn, Respondents

Joel W. Cantrick, Special Assistant Attorney General, Patricia Blizzard, Assistant Attorney General, Denver, Colorado, Attorneys for Respondent Industrial Commission of Colorado.

Marlin W. Burke, Wheatridge, Colorado, Attorney for Respondent Deborah D. Penn.

Judges: Judge Silverstein. * Van Cise and Kelly, JJ., concur.

Subsequent History: [****1**] Rehearing Denied April 28, 1983.

Opinion by: SILVERSTEIN

Prior History: Review of Order from the Industrial Commission of the State of Colorado.

Opinion

Disposition: Order Affirmed.

[*345] Petitioners seek review of an Industrial Commission order which determined that claimant, Deborah Penn, was a minor on the date she sustained the injury which resulted in her permanent total disability. We affirm.

Core Terms

claimant, express language, date of injury, final order, benefits, courts, adult

It is undisputed that on the date of the injury claimant was twenty years, six weeks old; that the date of the injury is the [****2**] determinative date; and that if

Counsel: Zarlengo, Mott and Zarlengo, Tama L. Levine, Denver, Colorado, Attorneys for Petitioners.

J. D. MacFarlane, Attorney General, Charles B. Howe, Deputy Attorney General,

* Retired Court of Appeals Judge sitting by assignment of the Chief

Justice under provisions of the Colo. Const. Art. VI, Sec. 5(3), and § 24-51-607(5), C.R.S. 1973 (1982 Cum. Supp.).

claimant, under the law, was a minor on that date, she is entitled to maximum benefits. See [§ 8-47-101\(5\), C.R.S. 1973](#).

I.

The basic statute, [§ 2-4-401, C.R.S. 1973](#) (now in 1980 Repl. Vol. 1B), provides:

"The following definitions apply to every statute, unless the context otherwise requires:

....

"(2) 'Court' means court of record.

....

"(6) 'Minor' means any person who has not attained the age of twenty-one years. No construction of this subsection (6) shall supersede the express language of any statute."

Petitioners contend that [§ 13-22-101\(1\), C.R.S. 1973](#), contains express language which renders the above-section inapposite here. That section provides:

"Notwithstanding any other provision of law enacted or any judicial decision made prior to July 1, 1973, every person, otherwise competent shall be deemed to be of full age at the age of eighteen years or older for the following specific purposes:

....

"(c) To sue and be sued in any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem or someone acting in **[**3]** his behalf."

[*346] Petitioners contend that the filing of a claim for workmen's compensation before the Industrial Commission constitutes suing

in a court of this state and that, therefore, claimant must, under the terms of the last-quoted statute, be regarded as an adult in determining her benefits. Rejecting this argument, the Commission ruled that it was a tribunal of the executive branch of government and that, although it performed quasi-judicial duties, it was not a court as defined by [§ 2-4-401\(2\), C.R.S. 1973](#). It therefore held that [§ 2-4-401\(6\), C.R.S. 1973](#), controlled. We agree with the Commission.

The Commission's order is in accord with the ruling of our Supreme Court set forth as Appendix A to [Matthews v. Industrial Commission, 627 P.2d 1123 \(Colo. App. 1980\)](#). There, the court emphasized the distinction between a court and the Industrial Commission by pointing out that the exception to the jurisdiction of the Court of Appeals in cases concerning the constitutionality of a statute applies only to review of final judgments of district and other courts, but does not apply to petitions for review of final orders of the Industrial Commission.

II.

Contrary **[**4]** to petitioner's contention, [§ 8-47-101\(5\), C.R.S. 1973](#), which sets forth the compensation payable to minors, contains no language which would supersede [§ 2-4-401\(6\)](#). Thus, the compensation awarded by the Commission's final order is correct.

III.

Claimant's motion for attorney's fees and costs is denied. As to her motion for an award of interest, the payment of interest on an award is governed by [§ 8-52-109\(2\)](#),

C.R.S. 1973.

The order of the Industrial Commission is affirmed.

JUDGE VAN CISE and JUDGE KELLY,
concur.

End of Document