

BEFORE THE MONTANA TAX APPEAL BOARD

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TIMOTHY L. BLIXSETH, )  
 ) Docket No. IT-2011-2  
 Appellant, )  
 -vs- )  
 ) ORDER  
 DEPARTMENT OF REVENUE ) on MOTION TO STRIKE  
 OF THE STATE OF MONTANA, ) and MOTION IN LIMINE  
 )  
 Respondent. )

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The Montana Department of Revenue (DOR) has filed a Motion to Strike the expert report of Joanne Sheridan and a Motion in Limine to preclude evidence from that witness.

No response to the Motion has been filed by Mr. Blixseth.

The Motion cites Rule 37(c), M.R.Civ.P., states that if “a party fails to provide information requested in [discovery] or fails to disclose information regarding [expert witness opinions], the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at trial, unless the failure was substantially justified or is harmless.”

The background facts submitted by the DOR list three separate requests sent to Mr. Blixseth for details about the witness, her work papers and materials, none of which Mr. Blixseth responded to in any way. Affidavit of Keith A. Jones in Support of Montana Department of Revenue’s September 12, 2014 Motions, Exhs. 131, 132, 133, 134. In addition, the DOR has submitted a copy of a letter from Ms. Sheridan to Mr. Blixseth’s counsel in which she states that she terminated her services for Mr. Blixseth. Affidavit, Exh. 136.

This Board finds that the facts satisfy the requirements of Rule 37(c), M.R.Civ.P. and hereby grants the Motion to Strike Ms. Sheridan's Expert Report and the Motion in Limine to preclude her from testifying.

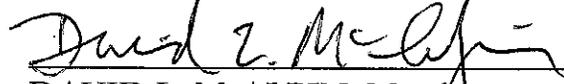
DATED this 3<sup>rd</sup> day of November, 2014.

BY ORDER OF THE  
MONTANA TAX APPEAL BOARD

(SEAL)

  
KAREN E. POWELL, Chairwoman

  
SAMANTHA SANCHEZ, Member

  
DAVID L. McALPIN, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3<sup>rd</sup> day of November, 2014, a true and correct copy of the foregoing has been served on the parties hereto by the method indicated below and addressed as follows:

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