

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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REATHA MONTOYA,	)	
CHARGING PARTY,	)	
	)	CASE NO. 0009009115
vs.	)	
	)	ORDER DENYING MOTION
LUCENT TECHNOLOGIES,	)	FOR RECONSIDERATION OF
RESPONDENT.	)	ORDER OVERRULING
		OBJECTION

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The above-captioned matter came before the Montana Human Rights Commission (Commission) on January 17, 2001. The matter was before the Commission for consideration of the charging party's Motion for Reconsideration of Order Overruling Objection. The Commission issued its Order Overruling Objection on November 3, 2000. Oral argument was not requested.

The basis of charging party's motion is her assertion that there is a factual error in the Order Overruling Objection. Charging party's attorney states in an affidavit that she received the Notice of Hearing on August 28, 2000, while the Order states, "The Notice of Hearing dated August 25, 2000, was served on Charging Party on September 10, 2000." Charging party's attorney claims that this is error, but Charging party's attorney confuses her receipt by mail of a copy of the notice served on charging party with actual service of the notice.

The Notice of Hearing that the department sends to parties states in the first paragraph, third sentence, "The hearing examiner will set the case for hearing within 90 days of the date of **service** of whichever party is **served** last." Section 49-2-505(1), MCA states that "The department **shall serve notice** of the hearing..." And Section 49-2-509((b)(2)(b), MCA refers to a "hearing to be held within 90 days of **service** of notice of hearing..." One party can be, and often is, served notice days or weeks before the other party. Here, a copy of the notice was sent by first class mail on August 25, 2000, to the attorneys for both parties. Copies were also sent to the sheriff in the respective jurisdictions for service on the parties themselves. On August 28, 2000, charging party's attorney received the copy that was mailed to her, as she swears in her affidavit of November 14, 2000. The sheriffs' returns of service, however, show that charging party was served on September 10, 2000, while respondent was served on August 30, 2000. Accordingly, the Commission finds that there is no factual error in the Order Overruling Objection because Charging party was served with notice of hearing on September 10, 2000.

IT IS HEREBY ORDERED, that charging party's Motion for Reconsideration of Order Overruling Objection is denied.

Dated this \_\_ day of <month>, <year>.

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Gloria "Patt" Etchart, Chair, Montana Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the foregoing **«document name»** was served on the following persons by U. S. Mail, postage prepaid on the day of «month», «year».

«ADDRESS»

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