

The Trial Court took judicial notice of the Department of Labor Administrative Appeal file, which was filed with the Trail Court on August 23, 2001. (S.R. Separate)

On May 28, 1998 the Trial Court granted Rehabilitation Strategies, Inc.'s motion for summary judgment. (S.R. 50 - 51) This Court affirmed Rehabilitation Strategies, Inc.'s summary judgment. *Gilchrist v. Trail King Industries, Inc. (Gilchrist I)*, 2000 SD 67, 612 N.W.2d 10. (S.R. 223 - 230)

The case against Trail King Industries, Inc. was tried to a jury on September 4, 5, 6, 7, and 10, 2001. The jury found in favor of Trail King Industries, Inc. and Judgment on Jury Verdict was entered on October 1, 2001. (S.R. 492)

Gilchrist filed a Motion for New Trial on October 11, 2001. (S.R. 496 - 500) This motion was denied by Order Denying Plaintiff's Motion for New Trial dated October 29, 2001. (S.R. 564)

LEGAL ISSUES PRESENTED

1. Did the Trial Court err in granting Defendant's motions in limine to:
 - a. Prohibit Plaintiff from referring to or mentioning the rehabilitation consultant on the workman's compensation claim, Kathleen Burns, during the trial; and
 - b. Prohibiting Plaintiff from referring to any conduct of the Defendant (Trail King) after February 22, 1995?

TRIAL COURT: The Trial Court prohibited Plaintiff from mentioning Kathleen Burns, the rehabilitation consultant from

Risk Administration, Inc, during the trial. Numerous redactions had to be made to exhibits to strike her name and activities therefore. These were all done over Plaintiff's objection. The Trial Court also prohibited Plaintiff from introducing evidence or examining witnesses about what Trail King did or did not do after February 22, 1995, or to use the affidavit of doctors or psychiatrists that were made after that date.

2. Did the Trial Court err in failing to take notice of the facts adjudicated by this Court, the Department of Labor, and Judge Zinter in the decisions involving Gilchrist's workman's compensation claim, which preceded this trial.

TRIAL COURT: The Trial Court refused to take notice of the adjudicated facts and legal determinations in the proceedings that lead to this Court's decision in *Gilchrist v. Trail King Industries, Inc. (Gilchrist II)*, 2000 SD 67, 612 N.W.2d 1.

3. Did the Court err in giving Instruction 15, 17, 20, 22, 23, 28, 32, 36 and 38 and refusing Gilchrist's proposed instructions 13, 15, 18, 23, 25, 26, 28, 29, 31, 33, 37, 41 - 53 and 55.

TRIAL COURT: The Trial Court gave all the above instructions over Plaintiff's objections and denied the proposals of Plaintiff, particularly Plaintiff's Proposed