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MONTANA WORKERS' COMPENSATION COURT

ROBERT FLYNN and CARL MILLER,)
 Individually and on Behalf of)
 Others Similarly Situated,)
)
 Petitioners,)
 vs.) WCC No. 2000-0222
)
 MONTANA STATE FUND,)
)
 and)
)
 LIBERTY NORTHWEST INSURANCE)
 CORPORATION,)
)
 Respondents.)

Taken at: Montana Workers' Compensation Courthouse
 Helena, Montana
 Monday, May 4, 2015, 10:04 a.m.

Before: The Honorable David M. Sandler
 (Appearing by telephone)

TELEPHONIC HEARING TRANSCRIPT

Reported by David E. Hix, ASCR, Montana Workers'
 Compensation Court Official Court Reporter, 1625 11th
 Avenue, Helena, Montana 59624-0537, (406) 444-7794,
 Official Court Reporter and Notary Public for the State
 of Montana, residing in Missoula, Montana.

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A P P E A R A N C E S

REXFORD L. PALMER, ESQ., Attorneys Inc., P.C., 301 West Spruce, Missoula, Montana 59802, appearing by telephone for and on behalf of the Petitioner.

STEVEN W. JENNINGS, ESQ., Crowley/Fleck, 490 North 31st Street, Suite 500, Billings, Montana 59103-2529, appearing by telephone for and on behalf of the Respondent.

ALSO PRESENT: JACKIE POOLE, CLERK OF COURT

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I N D E X

WITNESSES:

PAGE:

NONE CALLED

EXHIBITS:

NONE OFFERED

Certificate of Court Reporter

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Monday, May 4, 2015

THE COURT: And, is either Ms. -- I think it's -- Ehman or Mr. Heidrick there?

THE CLERK: No, no one has showed up at the Court. No one has contacted the Court by phone or correspondence.

THE COURT: Okay. So this will be quick then. This is the time set for a hearing regarding the Common Fund attorney's fees, so the benefits paid to Barbara Ehman and Shawn Heidrick from AIG. This is Cause No. 2000-0222. As set forth in the Affidavit of Tathay McNeilly, Ms. Ehman and Mr. Heidrick have been awarded additional benefits pursuant to the Flynn decision, and AIG has withheld amounts for the attorney's fees. AIG is willing to pay the withheld amounts at the direction of the Court.

The Court has received and filed a letter from AIG's attorney, which is Docket No. 726, notifying Ms. Ehman and Mr. Heidrick notice of the time and date of this hearing. They are not present and have not objected to the attorney's fees. So because there's no objection, and I understand that AIG doesn't object, the Court finds that given the history and complexity of this litigation and past orders in this case, the 40 percent is the applicable percentage to Ms. Ehman's

1 case. Thus, this Court finds that \$682.12 is an
2 appropriate and reasonable fee, and it is approved.
3 AIG is ordered to pay the \$682.12 as Common Fund
4 attorney's fees in Ms. Ehman's case to Mr. Palmer.

5 Also given the history and complexity of
6 this litigation and past orders in this case, the Court
7 finds that 25 percent is the applicable percentage to
8 Mr. Heidrick's case. Thus, this Court finds that
9 \$662.50 is an appropriate and reasonable fee, and it is
10 approved. AIG is ordered to pay the \$662.50 as Common
11 Fund attorney's fees in Mr. Heidrick's case to Mr.
12 Palmer.

13 Unless there are any questions or comments,
14 that will conclude this hearing. Jackie?

15 THE CLERK: Yes. Was there the same Motion
16 to Dismiss in this one, Mr. Jennings?

17 MR. JENNINGS: Yes, there was, it was
18 identical to the one in Schmill. Given the Judge's
19 comments and response to my question in Schmill, we'll
20 go ahead and get these amounts sent to Mr. Palmer, and
21 then at that time move for dismissal. And we can tee up
22 the briefing at that time.

23 THE COURT: Okay. That sounds good.

24 THE CLERK: Okay. Thank you, everybody.

25 (Thereupon, the hearing concluded at 10:07 a.m.)

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C E R T I F I C A T E

STATE OF MONTANA)
 : SS.
County of Missoula)

I, David E. Hix, ASCR, Freelance Court Reporter and Notary Public for the State of Montana, residing in Missoula, Montana, do hereby certify:

That I was duly authorized to and did report the testimony and evidence in this cause;

That the foregoing pages of this telephonic hearing transcript constitute a true and accurate transcription of my stenotype notes.

I further certify that I am not an attorney nor counsel of any of the parties; nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 4th day of May, 2015.

David E. Hix, ASCR
WCC Official Court Reporter,
Notary Public, State of Montana
Residing in Missoula, Montana.
My Commission expires: August 1, 2017