

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4599
Volume XXIII

Helena, Montana
May 4, 2015

ROBERT FLYNN and CARL MILLER,
Individually and on Behalf of Others Similarly Situated

Rex Palmer

vs.

MONTANA STATE FUND

Bradley J. Luck
Thomas E. Martello

and

LIBERTY NORTHWEST INSURANCE CORPORATION

Larry W. Jones

WCC No. 2000-0222

The attorney fee hearing in the above-entitled matter came on at 10:00 a.m. on Monday, May 4, 2015, at the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana. The Honorable David M. Sandler, Judge of the Workers' Compensation Court, presided. Petitioners Robert Flynn and Carl Miller were represented by Rex Palmer. Respondents AIU Insurance Co., American International Pacific Insurance Co., American Home Assurance Co., Birmingham Fire Insurance Co., Commerce & Industry Insurance Co., Granite State Insurance Co., Insurance Co. of the State of Pennsylvania, National Union Fire Ins. Co. of Pittsburgh, PA, New Hampshire Insurance Co., AIG National Insurance Co., American International Specialty Lines Insurance, American International Insurance Co., Illinois National Insurance Co., and American General Corp. (collectively AIG Insurers) were represented by Steven W. Jennings. The court reporter was David E. Hix. The hearing was held telephonically.

Pursuant to established precedent on what satisfies due process, the hearing was held to allow public comment on the attorney fees withheld by Respondents AIG Insurers for the benefits paid to Barbara Ehman and Shawn Heidrick. 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 Insurers have withheld amounts for the attorney fees.

AIG Insurers mailed letters to Ms. Ehman and Mr. Heidrick advising of the proposed attorney fees to be paid to Petitioner's counsel that were withheld from their award, and any refund to which they may be entitled. This letter provided the claimants with an area to indicate their willingness to attend the public hearing and provided notice of the time and date of this hearing. Neither Ms. Ehman nor Mr. Heidrick appeared or objected to the

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attorney fees. Because there is no objection by Ms. Ehman or Mr. Heidrick, AIG Insurers does not object to the attorney's lien.

Given the history and complexity of this litigation and past orders in this case, the Court finds that the 40% attorney's lien is reasonable and appropriate in Ms. Ehman's case, and the attorney's fee of \$686.12 is approved. AIG Insurers are ordered to pay \$686.12 as common fund attorney fees in Ms. Ehman's case to Mr. Palmer.

Given the history and complexity of this litigation and past orders in this case, the Court finds that the 25% attorney's lien is reasonable and appropriate in Mr. Heidrick's case, and the attorney's fee of \$662.50 is approved. AIG Insurers are ordered to pay \$662.50 as common fund attorney fees in Mr. Heidrick's case to Mr. Palmer.

Mr. Jennings will file a new motion to dismiss AIG Insurers; once Petitioners respond, the Court will issue a ruling on the motion.

An Order will be issued incorporating this minute entry.

Court adjourned at 10:07 a.m.

DAVID M. SANDLER
Judge

Minute Entry served on parties of record via website.

JJS/RB/JP

Docket Item No. 729