

FACTUAL BACKGROUND

1. Mary Odell was insured through The Montana Hospital Association when she sustained a worker's compensation injury. Mary Odell's claim is subject to the common fund claims established by this Court as referenced in the subsequent paragraph.

2. That the attorneys establishing the common fund for impairment benefits pursuant to the Montana Supreme Court decisions in *Rausch, et al. v. State Compensation Ins. Fund*, 2002 MT 203, and *Ruhd v. Liberty Northwest v. Fish, Frost, Rausch, as Intervenors*, 2004 MT 236 are entitled to common funds fees.

3. Mary Odell was determined to be permanently and totally disabled. She received an impairment rating in the amount of Four thousand Seven hundred four and No/100 Dollars (\$4,704.00). These funds are being retained by Brentwood Services, Inc., the Third Party Administrator (TPA) for the claim.

4. The common fund attorneys request that the TPA for Montana Hospital Association pay the attorneys for Ms. Odell twenty-five percent (25%) of the withheld impairment award in the amount of One thousand One hundred Seventy-six and 00/100 Dollars (\$1,176.00).

5. It is contended a twenty-five percent (25%) fee is a fair fee that is in accord with established fee statutes, the holding in the two Montana Supreme Court decisions previously referenced, and past worker's compensation decisions related to payment of common fund attorney fees.

6. After the payment of the common fund fees, the Three thousand Five hundred Twenty-eight and No/100 Dollars (\$3,528.00) remaining balance shall be paid to claimant by the TPA.

WHEREFORE, the parties hereby request:

1. that the Worker's Compensation Court order the TPA to pay the amount of One thousand One hundred Seventy-six and No/100 Dollars (1,176.00) to the common fund attorneys;

2. that the Court order the TPA to pay three thousand five hundred twenty-eight and no/100 Dollars (\$3,528.00) to Mary Odell;

3. that the common fund attorneys' fees in the amount of One thousand One hundred Seventy-six and No/100 Dollars (\$1,176.00) shall be paid to Milodragovich, Dale, Steinbrenner & Nygren, P.C.'s Trust Account for equal distribution to the common fund attorneys; and,

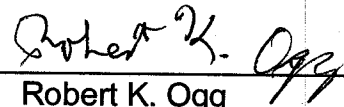
4. that the Three thousand Five Hundred Twenty-eight and No/100 Dollars (\$3,528.00) balance due to claimant shall be made payable to Mary Odell and sent by the TPA to her attorney, Robert Ogg.

DATED this 22nd day of March, 2007.

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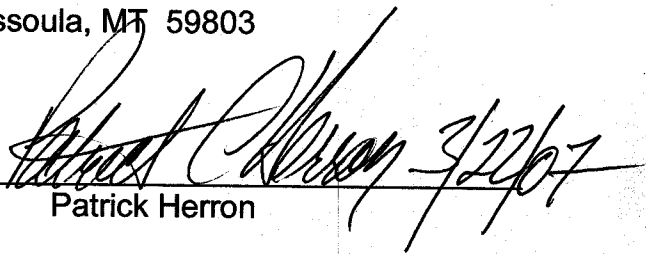
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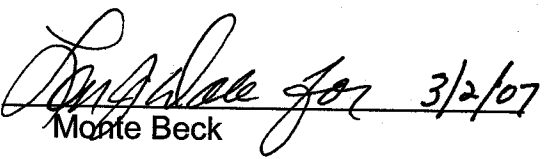
By:  3/2/07
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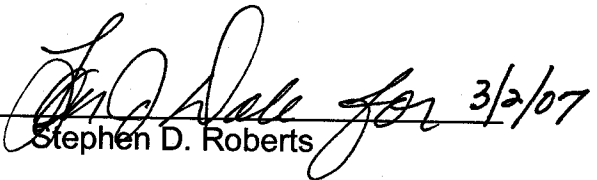
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March 27, 2007

Worker's Compensation Court
Attn: Hon. James Jeremiah Shea
1625 11th Avenue
P.O. Box 537
Helena, MT 59624-0539

RE: *Rausch, et al. v. Montana State Fund, et al.* (Common Fund Case)
Proposed Order for Distribution of Common Fund Fees
Re: Mary Odell
Claim No: MHAWC-01001413
Date of Injury: January 1, 1997
Our File No.: 6654/5

Dear Judge Shea:

The common fund attorneys have stipulated with an insurer and an injured worker's attorney concerning payment of an impairment award that is being withheld by the insured's Third-Party Administrator.

Please find enclosed an original Stipulation for Payment of Common Fund Fees relating to the Plan II claim of Mary Odell, Claim No. MHAWC-01001413, executed by the Claimant's attorney, Robert Ogg, on behalf of the Claimant, Mary Odell; the three common fund attorneys, individually, or by authorization; and by Patrick Herron, the authorized representative of Brentwood Services, Inc., the Third-Party Administrator for the Mary Odell claim.

We are hereby enclosing an original and four (4) copies of an Order approving payment of common fund fees and distribution of impairment award.

Upon approval of the Order, please conform and return all copies to our office. We will distribute the copies of the Order to Brentwood Services, Inc. and all counsel.

DATED this 27th day of March, 2007.

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