

MAY - 9 2005

AMENDED CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT is entered into this May, 2005, and shall amend and be controlling in place of the Confidentiality Agreement dated the 18<sup>th</sup> day of February, by MONTE BECK, LON DALE, and STEPHEN ROBERTS (hereinafter Claimants' attorneys), for purposes of maintaining and ensuring the confidentiality of information revealed to Claimants' attorneys during the course of litigation in *Ruhd v. Liberty Northwest Ins. Corp.*, (hereinafter "Ruhd"), and *Rausch, et. al v. Montana State Fund* (hereinafter "Rausch"), WCC No. 9907-8274R1.

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

WHEREAS, various insurers and self insurers operate as Plan I and Plan II workers' compensation insurers pursuant to Montana Code Annotated § 39-71-2101, et seq., and Claimants' attorneys are attorneys licensed to practice law in the State of Montana and who maintain offices in Bozeman, Montana and Missoula, Montana; and

WHEREAS, pursuant to the procedure followed in similar common fund cases, the parties wish to follow the Court's directive to enter into a confidentiality agreement, subject to Court approval, to protect the privacy interests of those persons who may be affected by the Workers' Compensation Court's decision in *Ruhd* and *Rausch*; and

WHEREAS, as part of the implementation process, Claimants' attorneys and their designated agents, health care providers, certified rehabilitation counselors or claims examiners who are assisting claimants' attorneys in the review of the files are requesting permission to examine and review confidential information maintained by the above-referenced Plan II workers' compensation insurer;

NOW, THEREFORE, in consideration of the foregoing premises, the parties agree as follows:

1. The term "confidential information" includes the names of claimants, claim numbers, medical records, as well as other personal information which is protected from public disclosure. The parties agree that any confidential information revealed to Claimants' attorneys, and their designated agents, health care providers, certified rehabilitation counselors or claims examiners who are assisting claimants' attorneys in the review of the files during the course of this litigation shall not be reproduced, disseminated or otherwise communicated by Claimants' attorneys and their designated agents, health care providers, certified rehabilitation counselors or claims examiners who are assisting claimants' attorneys in the review of the files or by any person acting on behalf of Claimants' attorneys except as provided in this agreement or pursuant to an Order of the Workers' Compensation Court.

2. The confidential information shall be available only to Claimants' attorneys, their agents, health care providers, certified rehabilitation counselors or claims examiners who are assisting claimants' attorneys in the review of the files or members of their law firms, and used by them solely for the purposes of enforcing the common fund created in *Rausch* and *Ruhd*.

3. All other information in the file that does not fall under the definition of confidential information is nevertheless subject to the terms and conditions of this Amended Confidentiality Agreement. This information will be made available only to claimants attorneys and their agents as part of the file review process and may not be copied, in whole or in part, in any form and may not be disseminated to anyone through any media by them.

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4. It is understood that the term "health care providers" referenced in this agreement includes medical experts who can review impairment determinations and, further, that a Court order is not necessary to have confidential documents obtained pursuant to this agreement to be reviewed by health care providers.

5. Pursuant to the Court's direction during the hearing on April 1, 2005, the Claimants' attorneys will have the health care providers sign an agreement incorporating the confidentiality, privacy and non-disclosure requirements as set forth in this Amended Confidentiality Agreement.

6. Pursuant to the Court's direction during the hearing on April 1, 2005, the Claimants' attorneys will have the certified rehabilitation counselors sign an agreement incorporating the confidentiality, privacy and non-disclosure requirements as set forth in this Amended Confidentiality Agreement.

7. Pursuant to the Court's direction during the hearing on April 28, 2005, the Claimants' attorneys will have the claims examiners who are assisting Claimants' attorneys in the review of the files sign an agreement incorporating the confidentiality, privacy and non-disclosure requirements as set forth in this Amended Confidentiality Agreement.

8. At the conclusion of this litigation and the implementation process, whether by trial, settlement or otherwise, the confidential information subject to this agreement, as well as copies thereof, shall be returned to the insurers for disposal. However, Claimants' attorneys may retain documents which they deem necessary to protect themselves against potential claims for professional negligence or misconduct. Any and all documents retained by Claimants' attorneys shall be placed under seal and shall not be reproduced, disseminated or otherwise communicated to any person except in connection with a defense to a claim for professional negligence or misconduct. Even when defending against such a claim, Claimants' attorneys shall prudently guard against the unwarranted dissemination of the confidential information. Further, any and all documents retained by Claimants' attorneys shall be destroyed after a reasonable period of time.

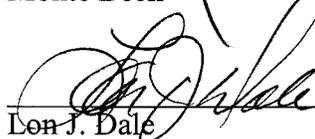
DATED this 6th day of May, 2005.



Stephen Roberts



Monte Beck



Lon J. Dale

APPROVED as to form and content and SO ORDERED on this 9<sup>th</sup> day of  
MAY, 2005.

A handwritten signature in black ink, appearing to read "Mike McCarter", written over a horizontal line.

Hon. Mike McCarter  
Workers' Compensation Judge

STEPHEN D. ROBERTS, P.L.L.C.  
ATTORNEY AT LAW

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ASPEN PROFESSIONAL CENTER  
1700 WEST KOCH STREET, SUITE 5  
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May 6, 2005

The Honorable Mike McCarter  
Office of Workers' Compensation Judge  
P.O. Box 537  
Helena, MT 59624

RE: Rausch/Ruhd Confidentiality Agreement  
WCC No. 9907-8274R1

Dear Judge McCarter:

Enclosed for your review and signature is the proposed Confidentiality Agreement, signed by all claimants' counsel.

Very truly yours,



Stephen D. Roberts

SDR:jll

Enclosure

c: Monte Beck  
Lon Dale  
Larry Jones