

BECK, AMSDEN & RUGGIERO PLLC  
Attorneys at Law

Attorneys:  
Monte D. Beck  
John L. Amsden  
Jory C. Ruggiero

1946 Stadium Drive, Suite 1  
Bozeman, MT 59715  
Tel: (406) 586-8700  
Fax: (406) 586-8960  
www.becklawyers.com

Paralegals:  
Carmen Hobbs  
Natalie Phillips  
David W. McGoldrick

May 14, 2005

**FILED**

MAY 16 2005

Honorable Mike McCarter  
Workers' Compensation Court  
P.O. Box 537  
Helena, MT 59624-0537

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

Re: *Rausch v. State Compensation Insurance Fund, et al.*  
WCC No. 9907-8274

Dear Judge McCarter:

Pursuant to your request for a status report concerning the FFR matter, I have the following information for your review.

The FFR attorneys are studying the Plan 1 and Plan 2 responses provided to the Court pursuant to the Summons issued January 10, 2005.

The Summons required a response to eight separate categories of information. To date, there has been no response to the following eighteen Plan 2 carriers, or Plan 1 entities:

1. American Home Assurance Co., Georgia
2. Associated Indemnity Corp.
3. Automobile Ins. Co. of Hartford
4. Champion International Corp.
5. Consolidated Freight
6. Employers Ins. of Wausau Mutual Co.
7. Holly Sugar Corp.
8. JC Penney Corp.
9. Nationwide Mut. Fire Ins.
10. Old Republic Ins. Co.
11. Penn. Manufac. Assoc.

Honorable Mike McCarter

May 14, 2005

Page 2

12. Reliance National Indemnity Co.
13. Stan Watkins Trucking-Watkins Shepard
14. Standard Fire Ins. Co.
15. Town Pump
16. Travelers Property Casualty Co. America
17. Valor Ins. Co.
18. Zurich American Ins. Co.

Extensions were given to 10 separate insurers or self-insureds to provide information by May 30, 2005. Five entities objected to providing any information:

1. Credit General Ins. Co.
2. Fremont Indemnity Co.
3. Legion Ins. Co.
4. LM Ins. Corp.
5. Wausau Underwriters Ins. Co.

A review of the materials provided by the Court to the FFR attorneys show that there were seven entities that complied with the Court's summons in almost all respects, those entities include:

1. MHA Workers' Compensation Fund
2. Montana Contractor Compensation Fund
3. Montana Municipal Ins. Authority
4. Safety National Casualty Co.
5. Sisters of Charity of Leavenworth
6. Sisters of Charity of Providence of Montana
7. Stillwater Mining Co.

The remaining insurers and self-insureds were deficient in one, or more of the eight categories of information ordered to be provided to the Court. The FFR attorneys have printed the information, placed it in notebooks by carrier, and will plan to prepare a Summons Compliance Report after review of the information to be provided by the end of this month.

Honorable Mike McCarter  
May 14, 2005  
Page 3

The FFR attorneys have decided to first begin work on the Liberty Group insurers. The FFR attorneys are beginning the process to look at the Liberty Northwest's claimants, but are being hampered by delay. By way of a letter dated May 13, 2005, by Lon Dale to Larry Jones, a copy of which was provided to the Court, the parties are attempting to stream-line the file review process at Liberty Northwest headquarters in Missoula. The FFR attorneys are waiting for the attorneys representing Liberty Northwest to complete their review of files for privileged information. It is the FFR's position that Liberty Northwest has the duty to review its own PTD files, obtain impairment ratings, if nonexistent, pay impairment awards immediately, and withhold common fund attorney fees. The FFR attorneys have yet to be notified when they can review numerous TTD files, or unrepresented claimants who settled after this Court's first Opinion of February, 2000. It is taking an extraordinary amount of time to conduct the personal review of files by the Liberty Northwest attorneys. It is unknown if we will encounter the same review delays with other carriers. However, the FFR attorneys continue to seek timely access to the files, so as to determine whether PTD claimants have received an impairment rating, whether they have been paid an impairment award, and whether attorney fees representing the common fund have been withheld.

The FFR attorneys are also working with Liberty Northwest to review claimants who have received temporary total disability payments greater than eighteen months. Those files have not been reviewed by the Liberty Northwest attorneys for privileged information, and therefore, the FFR attorneys have not been able to review the same. We expect to hear from the Liberty Northwest attorneys by May 16, 2005, concerning how much additional time is necessary to conduct its review of the files. The FFR attorneys have also requested that the Liberty affiliated company files also be reviewed by the insurers attorneys, and that these files be made available to the FFR attorneys. The FFR attorneys have not received sufficient information from these affiliated companies to enable them to determine full compliance with the Court ordered Summons.

It is abundantly clear that the review of the information provided to the Court to-date shows that there is serious, noncompliance with providing information in the categories ordered. It is expected that the FFR attorney will

Honorable Mike McCarter  
May 14, 2005  
Page 4

provide this Court a status report on Summons compliance within thirty days after the time period for extensions has expired.

If I can provide any further information to the Court, please advise.

Sincerely yours,

A handwritten signature in black ink that reads "Monte Beck". The signature is written in a cursive style with a large, stylized "M" and "B".

Monte D. Beck

MDB:gbb

c: Lon Dale, Esq.  
Stephen Roberts, Esq.  
Larry Jones, Esq.