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March 28, 2005

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

FILED

28
MAR 28 2005

RE: *Rausch, et al. v. Montana State Fund*
Ruhd v. Liberty Northwest Ins. Corp.
WCC No. 9907-8274R1

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

Dear Judge McCarter:

There are four categories of Liberty Northwest (LNW) and Liberty Mutual (LM) claims that you directed Larry and I to identify: claims arising between 7/1/91 and 9/4/02 (the day before the Supreme Court's decision in *FFR*), inclusive, and which are contained in one or more of the following:

1. The ERD spreadsheet provided to counsel by Diana Ferriter entitled "TTDLibertyDetail2Years.xls."
2. The ERD spreadsheet provided to counsel by Diana Ferriter entitled "PTDLibertyDetail.xls."
3. All claims in which Indemnity Code 40 (PTD) benefits were paid.
4. All claims in which Indemnity Code 10 (TTD) benefits were paid for more than 500 days (approximately 18 months).

With regard to the ERD spreadsheets, I sorted them by date of claim in order to identify and remove those claims arising prior to 7/1/91 and on/after 9/5/02. Claims that were not LNW or LM claims were also removed. Attached as Exhibits 1 and 2 are the modified versions of "TTDLibertyDetail2Years.xls" which corresponds with category 1 above and "PTDLibertyDetail.xls" which corresponds with category 2 above.

With regard to the 3rd and 4th categories, I asked our IT personnel (who are located in Portsmouth, New Hampshire) to query the claims database and identify Montana claims arising on or after 7/1/87 through 9/4/02 in which either PTD benefits were paid for any period of time or in which TTD benefits were paid for more than 500 days, or roughly 18


months. In the system, PTD benefits are designated as "Indemnity Code 40" and TTD benefits are designated as "Indemnity Code 10." Attached as Exhibits 3 and 4 are the search results for each query, which correspond with categories 3 and 4 above respectively.

Each of the four exhibits/spreadsheets attached identifies the following: name of claimant, claim number, and date of injury/OD. Additionally, each exhibit identifies the following relevant information: whether the claim is settled and the date of settlement; whether the claimant is known to be deceased; whether litigation occurred in the claim which affects the instant proceedings; and whether benefits were terminated due to a claimant's incarceration. (The ERD spreadsheets also contain other information which appeared in their originals.)

It is our understanding that settled claims are not in the common fund and therefore are not required to be produced. Additionally, it is our understanding that claims arising between 7/1/87 and 6/30/91, inclusive, are not required to be produced at this time. We will produce the claim files for those claimants whom we know to be deceased, however the parties will need to discuss with Court the issues in those claims, including how any impairment award might be determined and paid.

If you have specific questions concerning the attached Exhibits, please feel free to contact me, as I am the custodian of the spreadsheets and performed the claim-by-claim review to identify the settlement information, etc.

Sincerely,



Carrie L. Garber

cc: Lon Dale
Monte Beck
Steve Roberts