

---

**LAW OFFICE OF JONES & GARBER**

*An Insurance Company Law Division*

700 SW HIGGINS AVENUE, SUITE 108 • MISSOULA, MT 59803-1489

TELEPHONE 406-543-2433 • FACSIMILE 406-829-3436

---

Larry W. Jones  
406-543-2433  
Larry.Jones@llawoffice.com

Carrie L. Garber  
406-543-2434  
Carrie.Garber@llawoffice.com

---

November 23, 2004

*Via Fax to (406) 444-7798 and U.S. Mail*

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

**FILED**

NOV 24 2004

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

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

Dear Judge McCarter:

Thank you for your letter of November 17, 2004, attached to which was a draft Summons.

In your letter you invited further comment and suggestions. As I hope you will remember in the Cheetham v. LNW case you issued a confidentiality/protective order that allowed Dave Lauridsen to review the files Liberty identified that could have fallen under his common fund attorney fee claim. Dave then reviewed those files and the matter was resolved.

I was hoping the same procedure could be followed in this case, after all implementation issues have been resolved, by providing the common fund attorneys with the PTD claims that have been identified by Liberty and ERD searches after which they could go through the hard copy files to develop much if not all of the other information outlined in ¶¶1-9 of your Summons.

A major benefit of this procedure is that it allows the common fund attorneys to satisfy themselves about the key facts that may give rise to an entitlement to common fund attorney fees. If the insurer is required to go through all of these files and provide the information set forth in your Summons, then the common fund attorneys may want to duplicate exactly the same effort.

Also I believe as a matter of equity the common fund attorneys who are claiming the fee should do the work for which they are being compensated by the common fund attorney fees.

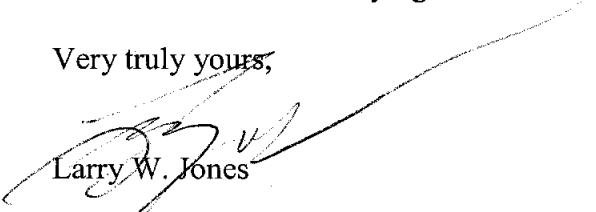
As I am sure you know from your extensive involvement in other common fund cases, the work that may be required can be extensive both in time and resources.

---

Therefore I request that the Summons simply be to require the insurers to appear and participate in the common fund proceeding. As I hope you will remember in Dave's case, the method that was followed was both expeditious and resulted in absolutely no disagreements as to what cases fell under the common fund claim or the disposition of those cases.

Thank you for your invitation to comment. By a copy of this letter to all attorneys to whom your letter was sent I am notifying them of this communication with you and Liberty's request.

Very truly yours,



Larry W. Jones

LWJ/ap

c: Lon Dale

Stephen Roberts

Greg Overturf

Thomas Harrington

Mark Cadwallader

Monte Beck

Geoffrey Angel

Bradley Luck

Carrie Garber

Victor Halverson

Rex Palmer

Dianna Ferriter

Carol Gleed