

WORKERS' COMPENSATION COURT

Hearing No. 3618
Volume XVIII

Helena, Montana
June 22, 2005

ALEXIS RAUSCH, et al.

Stephen D. Roberts
Monte D. Beck
Lon J. Dale

vs.

MONTANA STATE FUND, et al.

and

JEREMY RUHD

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Larry W. Jones
Carrie L. Garber

WCC No. 9907-8274R1

I held a telephone conference with above counsel to discuss further file review in light of the "closed file" finality issue raised by Liberty. I instructed the attorneys to proceed with file review under the guidelines previously agreed to and approved by me. I advised counsel that I will take up Liberty's arguments in the *Schmill* case at the conference scheduled in July and that any ruling I make in that case will be based on the Supreme Court decision and should therefore apply to other common fund cases involving retroactive application.

We then discussed a June 16, 2005 letter from Mr. Beck to Ms. Garber. That letter will be docketed and made a part of the Court record; however, it will be sealed since it contains specific claimant information. With respect to the claimant's identified in paragraph 2, the FFR attorneys may contact the individual attorneys for those claimants to determine if there is any interest in disputing the amounts of the impairment awards already paid.

With respect to attorney fees withheld by Liberty on impairment awards (paragraph 3), we discussed the possibility of notifying the individual claimants of the amount of the fees proposed by the FFR attorneys to determine if they have objections. Since it will be some time before all benefitted claimants are identified, the FFR attorneys would like to find a satisfactory method to obtain attorney fees as we go along rather than wait until the

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case is wrapped up and an attorney fee hearing held. They will discuss this further among themselves and then with Mr. Jones and Ms. Garber. The matter will then be discussed with the Court at the time of the July conference in *Schmill*.

With respect to claimant's identified in paragraph 1, action on the two OD claimants will be deferred pending the Supreme Court decision in *Stavenjord*. As to the last three identified claimants, further information will be furnished by Liberty so all concerned can determine whether impairment ratings for those three are indeed needed at this time.

Finally, we discussed ongoing file review. As agreed, Ms. Garber will go through the files for the temporary totally disabled claimants and provide file review information to the FFR attorneys on the same form being used for other files. This will eliminate the further review of a significant number of files. Ms. Garber will complete the process by July 14th. We will then schedule further file review by the FFR attorneys during the *Schmill* conference.

Finally, Mr. Beck requested an updated CD of the case filings. Ms. Bockman will provide it shortly.

MIKE McCARTER
Judge

Minute Entry e-mailed to attorneys of record on June 22, 2005.