

WORKERS' COMPENSATION COURT

Hearing No. 3619
Volume XVIII

Helena, Montana
June 23, 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

Rausch Clarifying Minute Entry

Subsequent to my publishing of a minute entry for a May 23, 2005 conference (refer to Minute Entry No. 3607) held with the FFR and Liberty Northwest attorneys, Ms. Carrie L. Garber requested amendments to the minute entry, indicating that the minute entry did not accurately reflect some matters discussed in the May 23rd conference. The request was by e-mail and copied to the FFR attorneys. I thereafter had a series of communications with Ms. Garber via e-mail, all of which were copied to the FFR attorneys, and ultimately arrived at an understanding of what was being requested. I requested the FFR attorneys to respond if my understanding was incorrect. They have not done so and I assume at this time that they agree with the understanding I published in the e-mails. Accordingly, I set forth that understanding in the form of the present minute entry. That understanding is as follows:

With respect to lists (Exhibits 1 and 4), which list the TTD claimants receiving benefits for more than twenty-four and eighteen months, respectively, Liberty will review and fill out the forms for claims settled between 9/13/2000 and 9/5/2002, where the claimants were unrepresented. Eleven total files for that period have been identified. Objections to inclusion of those eleven were deferred since the review may moot the need for objections. As to the claims settled after 9/5/2002, those files will be reviewed and the form filled out. Impairment awards will not be calculated or paid at this point (I assume because Liberty disputes any entitlement as to the settled cases). Finally as to the files for which the forms are to be filled out, the FFR attorneys must specifically identify any

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ones they wish to review, otherwise no further review will be done and the files may be returned to general storage.

With respect to list (Exhibit 3), all files will be reviewed by Ms. Garber and a form prepared for each one. In addition, Ms. Garber will identify those claimants entitled to impairment awards.

As to list 2, it appears that the same procedure as for list 1 and 4 applies. However, I am not sure why this is so. List 2 is the DLI list of PTD claimants. The claimants on it should be on Liberty's own PTD list, which is list 3, unless there are errors. If there are claimants on that list who fall under list 4, which is Liberty's TTD list, then I assume the files for those claimants ought to be handled the same was as other list 4 files. If a case is not on either list 3 or 4, then the files ought to be reviewed to determine whether it should be on either of those lists and be treated according to the rules governing the list it should be on.

MIKE McCARTER
Judge

Minute Entry e-mailed to Rausch distribution list on June 23, 2005.