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**FILED**

MAR 15 2010

OFFICE OF  
 WORKER'S COMPENSATION JUDGE  
 HELENA, MONTANA

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Common Fund Attorneys

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ALEXIS RAUSCH, et al.,	)	WCC No. 9907-8274R1
	)	
Petitioner,	)	<b><u>SETTLEMENT STIPULATION RE</u></b>
	)	<b><u>COMMON FUND ATTORNEYS'</u></b>
-vs-	)	<b><u>FEES WITHHELD BY MONTANA</u></b>
	)	<b><u>ASSOCIATION OF COUNTIES'</u></b>
MONTANA STATE FUND, et al.	)	<b><u>WORKERS' COMPENSATION</u></b>
	)	<b><u>TRUST</u></b>
Respondent.	)	
_____	)	

This settlement stipulation is made and entered into by and between Lon J. Dale, Monte D. Beck and Stephen D. Roberts ("common fund attorneys") and Norman H. Grosfield, attorney for Montana Association of Counties' Workers' Compensation Trust (MACO WCTr).

1. Rather than the maximum fee allowed by statute, the Common Fund

DOCKET ITEM NO. 368

Attorneys have agreed to the same fee schedule approved by this Court in its July 10, 2003 Attorney Fee Order and Judgment in Rausch v. Montana State Fund, which is a fee of 15% of any impairment award paid to a claimant less than 60 years of age, 10% if the claimant is age 60 or 61, at 5% if the claimant is age 62 or 63. The ages are determined as of the date of the Supreme Court decision in Rausch, September 5, 2002.

Fees have been withheld by MACOWCTr from the impairment awards of the following individuals as set forth below:

Name	Age on 9/5/02	Fee %	DOI	Impairment Rating (IR)	Amount of Award	Attorney Fees Withheld by MACo	Common Fund Attorney Fees Owed	Balance Due Claimant
Booth, Rand Elliot	52	15	2/27/96	9%	\$5,985.00	\$897.75	\$897.75	\$0.00
Lawson, Allen E.	53	15	09/04/01	20%	\$15,890.00	\$3,972.50	\$2,383.50	\$1,589.00
Murphy, John P., Jr. (Dec.)	57	15	02/28/01	31%	\$23,815.75	\$5,953.93	\$3,572.36	\$2,381.57
Naasz, Irvin L.	60	10	08/21/01	47%	\$37,341.50	\$5,164.25	\$3,734.15	\$1,430.10
Ettore, Salvatore	57	15	04/13/98	20%	\$13,860.00	\$3,465.00	\$2,079.00	\$1,386.00
Total Common Fund Attorneys' Fees Owed							\$12,666.76	

2. The common fund attorneys agree to waive all attorneys' fees withheld beyond the percentage dictated by this Court's July 10, 2003 Attorney Fee Order and set forth above. Therefore, the amount in the "Balance Due Claimant" column is to be refunded to the respective claimants by MACoWCTr.

3. Lon J. Dale hereby agrees to serve notice by certified mail to each claimant identified above of the attorneys' fees claimed from the attorneys' fees withheld. The notification shall be mailed to each claimant's address as provided by MACOWCTr. Each claimant will be given three weeks from the time of mailing within which to object. In the event of an objection, claimants shall be required to file their written objections with the Workers' Compensation Court or Mr. Grosfield, or with Mildragovich, Dale, Steinbrenner & Nygren, P.C. Further, Lon J. Dale shall advise the Court by affidavit at the conclusion of the three weeks, confirming notice to claimants and status of any objections. Should objections be made, this Court will schedule a hearing to hear the objections and after the hearing, issue an order regarding the payment of the common fund attorneys' fees. If there are no objections, a request will

be made for an appropriate court order from the Workers' Compensation Court ordering MACOWCTr, through its attorney, to pay the stated common fund fees and reimburse the claimant's the balances due. MACOWCTr shall promptly thereafter send a check in the amount of \$12,666.76 payable to Milodragovich, Dale, Steinbrenner & Nygren, P.C. Trust Account (MDSN Trust Account) for equal distribution to the common fund attorneys, and distribute to the respective claimants the amounts set forth in the "Balance Due Claimants" column of this stipulation.

DATED this 12<sup>th</sup> day of March, 2010.

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By: \_\_\_\_\_

Lon J. Dale

GROSFIELD LAW OFFICE  
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*Attorney for Montana Association of  
Counties' Workers' Compensation Trust*

By: \_\_\_\_\_

Norman H. Grosfield

6654/5 (kwp)

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## GROSFIELD LAW FIRM

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March 12, 2010

Hon. James Jeremiah Shea  
Workers' Compensation Court  
P.O. Box 537  
Helena, MT 59624-0537

Re: Rausch, et al. v. Montana State Fund, et al.

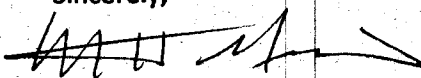
Dear Judge Shea:

Enclosed is a stipulation entered into between Petitioner's counsel and the MACO Workers' Compensation Trust, and a proposed order. This involves payment of certain attorney fees to counsel in those cases in which fees were withheld by the MACOWCTR when the impairment award was made, and the individuals are not represented by an attorney.

If the proposed order is acceptable to the Court, we would appreciate it if you would proceed to issue the order.

If you have any questions, please contact either Lon Dale or myself. We appreciate the Court's consideration of this matter.

Sincerely,



Norman H. Grosfield  
Attorney for the MACOWCTR.

Enclosures

c: Lon J. Dale