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FILED

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OFFICE OF
 WORKER'S COMPENSATION JUDGE
 HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT
 FOR THE STATE OF MONTANA

CATHERINE E. SATTERLEE,)	WCC No. 2003-0840
Petitioner,)	
v.)	
LUMBERMAN'S MUTUAL CASUALTY)	
COMPANY,)	
Respondent/Insurer A)	
_____)	
JAMES ZENAHLIK,)	WCC No. 2003-0840
Petitioner,)	
v.)	
MONTANA STATE FUND,)	
Respondent/Insurer)	
_____)	
JOSEPH FOSTER,)	WCC No. 2003-0840
Petitioner,)	
v.)	
MONTANA STATE FUND,)	
Respondent/Insurer)	
_____)	
_____)	

LUMBERMAN'S BRIEF IN OPPOSITION TO DISCOVERY

Respondent/Insurer Lumberman's Mutual Casualty Company ("Lumberman's") asserts that Satterlee's Motion and Brief for an Order Allowing Discovery should be denied. In its Order Denying Petitioner's Motion for Summary Judgment, this Court held that there was a rational basis to compensate an injured worker for his or her "work life" and that the Legislature specifically did not intend in enacting § 39-71-710, MCA, to create a "pension program."

Although the Court considered the financial impact in reaching its decision, the financial impact was recognized as a justification supporting the rational basis for a reasonable limitation of permanent total disability benefits. This Court found that financial impact rationally supported the legitimate government interest in a limitation of benefits in § 39-71-710, MCA. Lumberman's asserts that all parties agree that a finding that § 39-71-710, MCA, is unconstitutional would have a significant financial impact on the workers' compensation system. In discussing this issue, Satterlee states, "Satterlee concedes that the financial impact will be significant," (Satterlee's Motion and Brief for an Order Allowing Discovery, pg. 3.) While recognizing the financial impact would be significant, Petitioners dispute the extent of the impact.

Given Satterlee's admission that the economic impact would be significant, there is no need for further discovery. There is no question of fact. All parties agree that the financial and economic impact of the decision is significant; therefore, allowing discovery to simply determine the exact extent of the impact is not warranted.

Accordingly, it was proper for this Court to consider the financial impact in arriving at its decision. As conceded by Petitioners, the financial impact of lifetime permanent total disability benefits would be significant and, as such, it was properly considered as part of the rational basis to support the constitutional validity of § 39-71-710, MCA. Petitioners' concession that the financial impact would be "significant" supports the Court's Order Denying Motion for Partial Summary Judgment and its finding that providing permanent total disability benefits would have "a general negative impact on the workers' compensation system." (Order Granting Reconsideration, ¶ 15.) No further discovery is needed.

For these reasons, Lumberman's hereby requests that the Court deny Satterlee's Motion and Brief for an Order Allowing Discovery be denied.

DATED this 15th day of August, 2006.

BROWN LAW FIRM, P.C.

BY  _____

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was duly served on counsel of record by U.S. mail, postage prepaid, and addressed as follows this 15th day of August, 2006:

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