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**FILED**

AUG 30 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

*Thomas J. Murphy, Attorney*  
*Charla K. Tadlock, Attorney*

*Lou Joi Poelman, Paralegal*  
*Sandra Lee Gilbert, Paralegal*

August 29, 2005

Bradley J. Luck  
Garlington, Lohn & Robinson  
P O Box 7909  
Missoula, MT 59807-7909

Via Fax & 1<sup>st</sup> Class Mail

RE: Schmill v. Montana State Fund  
WCC No. 2001-0300

Dear Brad:

I reviewed your proposed Order Authorizing [Fee] Withholding, which you attached to your letter dated 8/26/05. I understand that if signed the order will allow insurers to withhold common fund attorney fees. I do not understand why your proposed order attempts to resolve the potential fee dispute between counsel in the Schmill and Stavenjord cases. As you may recall, the potential fee lien overlap was previously discussed with the Court. The Court agreed that Schmill and Stavenjord could wait to brief the fee issue until the issue was ripe (i.e., both cases had returned from the Supreme Court). This appeared to be working well until you inserted the issue into your proposed order. I submit that you and Laurie Wallace can accomplish everything you need to accomplish without using the third and fourth paragraphs of your proposed order. Please remove those two paragraphs. If that is not possible, please contact me to arrange for another hearing with the Court. Thank you.

Sincerely yours,

Thomas J. Murphy

TJM/ljp  
cc. Workers Compensation Court  
Laurie Wallace  
David Hawkins

DOCKET ITEM NO. 73