

Poole, Jacqueline

From: Shea, Jim
Sent: Friday, June 11, 2010 12:34 AM
To: 'legalpad@digisys.net'; 'bjluck@garlington.com'; Martello, Tom
Cc: Poole, Jacqueline; Simon, Paul
Subject: Schmill v. Liberty and Montana State Fund

Counsel,

After reading the briefs on whether the *Schmill* common fund attorney fee should be calculated pre or post SSDI offset, it occurred to me that a fact that may inform my determination of this issue is what the predominant practice is for calculating attorney fees when an SSDI offset is involved on non-common fund cases. Obviously, there are a number of non-common fund cases that involve SSDI offsets. I would like to discuss with all of you whether the predominant practice on those cases is to calculate the attorney fee before or after the offset. This was the impetus for the conference call that Jackie has contacted you to schedule.

During the conference call, I would like to discuss two main issues: (1) How are attorney fees typically calculated when an SSDI offset is involved – i.e., before or after offset; and (2) Is there a justification for deviating from the standard practice when calculating the common fund fee.

Thank you for your assistance in this matter.

James Jeremiah Shea
Judge
Montana Workers' Compensation Court
406-444-7794

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OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA