

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4400
Volume XXIII

Helena, Montana
June 26, 2012

CASSANDRA SCHMILL

Laurie Wallace

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Larry W. Jones

and

MONTANA STATE FUND

Bradley J. Luck
Thomas E. Martello

WCC No. 2001-0300

The attorney fee hearing in the above-entitled matter came on Tuesday, June 26, 2012, at the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana. The Honorable James Jeremiah Shea, Judge of the Workers' Compensation Court, presided. Petitioner Cassandra Schmill was represented by Laurie Wallace. Intervenor Montana State Fund was represented by Thomas E. Martello. The court reporter was Kim Johnson. The hearing was scheduled to begin at 9:00 a.m.; however, I delayed commencement of the hearing until 9:10 a.m. to ensure that no additional claimants were appearing.

Pursuant to established precedent on what satisfies due process, the hearing was held to allow public comment on the attorney fees withheld by Intervenor Montana State Fund. Ms. Wallace has requested that the attorney fees be fixed at 25% of all past-due temporary total disability benefits. The Montana State Fund does not object to this request.

The Montana State Fund mailed letters to potential claimants advising of the proposed attorney fees to be paid to Petitioner's counsel that were withheld from their award, and any refund to which the claimants may be entitled. This letter provided the claimants with an area to indicate their willingness to attend the public hearing. An Order was mailed with the letter advising June 26, 2012, at 9:00 a.m. as the date and time for a public comment hearing. No claimants appeared at the time set for this hearing.

One claimant, Mark Gillette, responded in writing to the notice, objecting to the 25% attorney fee lien.¹ Ms. Wallace offered to reduce her attorney fee from 25% to 15% on Mr. Gillette's claim. Mr. Martello advised the Montana State Fund takes no position on this matter. No other claimants responded to the notice.

After hearing testimony from counsel, I approved the 25% attorney fee figure for all

¹ Written Statement From Mark Gillette to Court Re Objection to Proposed Attorney Fees, Docket Item No. 548.

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Montana State Fund benefitted claimants, with the exception of the 15% attorney fee on Mr. Gillette's claim.

An Order will be issued incorporating this minute entry.

Court adjourned at 9:12 a.m.

JAMES JEREMIAH SHEA
Judge

Minute Entry served on parties of record via website.

JJS/RB/JP

Docket Item No. 550