

IN THE WORKERS COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

**FILED**

CASSANDRA SCHMILL

JAN 29 2015

Petitioner

vs.

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

and

MONTANA STATE FUND

Intervenor.

ORDER ESTABLISHING HEARING DATE FOR  
COMMON FUND ATTORNEYS' FEES

As the result of a decision by the Montana Supreme Court on April 10, 2003, in the above-captioned case, Petitioner established the right of occupational disease claimants to receive workers' compensation benefits at the same rate as industrial injury claimants and without any apportionment deductions for non-occupational factors contributing to the occupational disease. You have been identified as a claimant who has either received such an award or is eligible to receive such an award pursuant to the Supreme Court's decision.

Since the Petitioner in this case established the legal precedent for the immediate payment of TTD benefits at the full benefit rate, the Montana Supreme Court has determined that her attorneys are entitled to recover attorneys' fees in some amount for these benefits. The attorneys' fees are payable from the increased TTD benefits that were obtained for claimants who suffered work injuries from the period of July 1, 1987, through June 22, 2001.

In recognition of this decision by the Montana Supreme Court, your workers' compensation insurer has withheld a certain percentage of your past-due TTD benefits in order to pay the attorneys' fees incurred by Petitioner. The specific percentage of the attorneys' fees to be deducted from your past-due benefits has now been agreed upon between the Petitioner and your workers' compensation insurer, but has not yet been

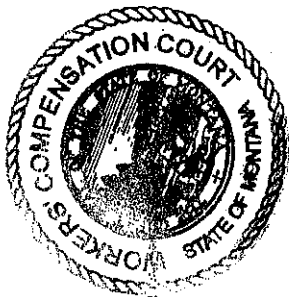
DOCKET ITEM NO. 601

approved by the Montana Workers' Compensation Court. Specifically, the Petitioner and your workers' compensation insurer have agreed that the attorneys' fees be fixed at 25% of all past-due TTD benefits. If the agreement is approved by the Montana Workers' Compensation Court, the attorneys' fees will be forwarded to the Petitioner's attorneys from the amount withheld from your past-due benefits. Any remaining portion of the withheld amounts will be refunded to you.

The Court is not bound by the agreement between the Petitioner and your workers' compensation insurer and may set the amount of the attorneys' fees at some other level. The Court has scheduled a hearing to determine the amount of the attorneys' fees, which you are invited to attend, on Monday, the 4th day of May, 2015, in Helena, Montana, at 9:00 A.M. The hearing will be held in the courtroom of the Workers' Compensation Court, 1625-11<sup>th</sup> Avenue, Helena, Montana.

**YOU HAVE THE RIGHT TO BE PRESENT AT THAT HEARING TO VOICE YOUR SUPPORT FOR OR OBJECTION TO THE PROPOSED ATTORNEYS' FEES. YOU MAY ALSO FILE A WRITTEN STATEMENT SUPPORTING OR OBJECTING TO THE PROPOSED ATTORNEYS' FEES BY MAILING YOUR STATEMENT TO THE WORKERS' COMPENSATION COURT, P.O. BOX 537, HELENA, MONTANA, 59624-0537, NO LATER THAN April 17, 2015. *All oral and/or written comments should be limited to the proposed attorneys' fees.***

Dated in Helena, Montana, this 29th day of January, 2015.



David M. Sand  
JUDGE

## EXHIBIT A

- AIU Insurance Co.
- American International Pacific Insurance Co.
- American Home Assurance Co.
- Birmingham Fire Insurance Co.
- Commerce & Industry Insurance Co.
- Granite State Insurance Co.
- Insurance Co. of the State of Pennsylvania
- National Union Fire Ins. Co. of Pittsburgh, PA
- New Hampshire Insurance Co.
- AIG National Insurance Co.
- American International Specialty Lines Insurance
- American International Insurance Co.
- Illinois National Insurance Co.
- Lexington Insurance Co.