

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4598
Volume XXIII

Helena, Montana
May 4, 2015

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 at 9:00 a.m. on Monday, May 4, 2015, at the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana. The Honorable David M. Sandler, Judge of the Workers' Compensation Court, presided. Petitioner Cassandra Schmill was represented by Laurie Wallace. Respondents 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., and Lexington Insurance Co. (collectively AIG Insurers) were represented by Steven W. Jennings. The court reporter was David E. Hix. The hearing was held telephonically.

Pursuant to established precedent on what satisfies due process, the hearing was held to allow public comment on the attorney fees withheld by Respondents AIG Insurers for the benefits paid to Carole Allison. As set forth in the Affidavit of Tathay McNeilly, Ms. Allison has been awarded additional benefits pursuant to the *Schmill* decision, and AIG Insurers have withheld amounts for the attorney fees.

AIG Insurers mailed a letter to Ms. Allison advising of the proposed attorney fees to be paid to Petitioner's counsel that was withheld from her award, and any refund to which she may be entitled. This letter provided Ms. Allison with an area to indicate her willingness to attend the public hearing and provided notice of the time and date of this hearing. Ms. Allison did not appear or object to the attorney fees. Because there is no objection by Ms. Allison, AIG Insurers does not object to the attorney's lien.

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Given the history and complexity of this litigation and past orders in this case, the Court finds that the 25% attorney's lien is reasonable and appropriate in Ms. Allison's case, and the attorney's fee of \$141.21 is approved. AIG Insurers are ordered to pay \$141.21 as common fund attorney fees in Ms. Allison's case to Ms. Wallace.

Mr. Jennings will file a new motion to dismiss AIG Insurers; once Petitioner responds, the Court will issue a ruling on the motion.

An Order will be issued incorporating this minute entry.

Court adjourned at 9:08 a.m.

DAVID M. SANDLER
Judge

Minute Entry served on parties of record via website.

JJS/RB/JP

Docket Item No. 605