

FILED

JUL - 6 2015

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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Attorneys for Montana Contractor Compensation Fund

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,

Petitioner,

v.

LIBERTY NORTHWEST INSURANCE
CORPORATION,

Respondent/Insurer.

MONTANA STATE FUND,

Intervenor.

WCC No. 2001-0300

**STIPULATION FOR DISMISSAL
WITH PREJUDICE**

COME NOW the Montana Contractor Compensation Fund (MCCF) and Laurie Wallace, counsel for Petitioner and common fund counsel, and hereby stipulate and agree as follows:

1. That in accordance with rulings of the Montana Supreme Court and this Court in the above captioned case, the MCCF undertook a review of its files to determine if any claimants exist who fall within the holdings of this litigation and are entitled to additional benefits. That one claimant was identified who met the criteria and was entitled to additional benefits totaling \$180.12. Laurie Wallace has evaluated the review criteria utilized by the MCCF and agrees the criteria utilized was appropriate and in conformance with this Court's rulings.

2. That the MCCF has elected to pay claimant the entire amount that was apportioned. Notification and payment has been sent to the claimant. See Ex. 1. In addition to the amount paid to claimant, the MCCF has elected to pay Laurie Wallace, as common fund counsel, her common fund attorney fee of \$45.03. Because claimant

DOCKET ITEM NO. 612

has been paid the full amount owed pursuant to this litigation, no hearing is needed to allow claimant to object to the common fund fee.

3. That upon obtaining a Judgment from this Court in accordance with this Stipulation, Respondent shall pay to Laurie Wallace the sum of Forty Five Dollars and 03/100 (\$45.03) in full satisfaction of her common fund attorney fee claim against the MCCF.

4. That the MCCF and Laurie Wallace hereby stipulate and request that the MCCF be dismissed from the above-entitled action with prejudice.

DATED this 1 day of July, 2015

Attorneys for Petitioner/Common Fund:

Bothe & Lauridsen, P.C.
P.O. Box 2020
Columbia Falls, MT 59912-2020
Telephone: (406) 892-2193

By Laurie Wallace
Laurie Wallace

DATED this 2nd day of July, 2015.

Attorneys for MCCF:

WILLS LAW FIRM, P.C.
323 West Pine Street
Missoula, MT 59802
Telephone (406) 541-8560

By Kelly M. Wills
Kelly M. Wills

MCCF

MONTANA CONTRACTOR
COMPENSATION FUND

July 1, 2015

Dale Dey
10 Konley Dr
Kalispell MT 59901

Dear Dale:

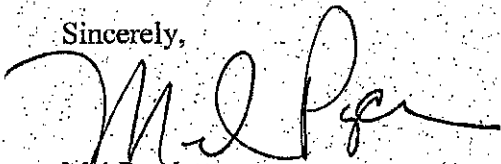
As you are aware, the MCCF is the adjuster for your industrial claims with Swank. This is to inform you that the Montana Supreme Court, in the case of *Schmill v Liberty Northwest Insurance Co.*, decided that apportioning occupational disease benefit entitlements between occupational and non-occupational factors denied claimants equal protection of the laws guaranteed by the Montana Constitution. The Court holding was declared to be retroactive to entitlements arising on and after July 1, 1987. Our records indicate that you have an additional occupational disease benefit entitlement as a result of this decision regarding your 9/18/2000, bi-lateral carpal tunnel claim.

The apportionment taken against disability benefits that you received results in an underpayment of \$180.12 for TTD benefits from 2/20/2001 through 3/4/2001, which are the inclusive dates wage loss benefits were due and paid to you by the MCCF with an apportionment. For this time frame you were paid at 75% apportionment. Therefore, you are due the remaining 25% of benefits, which totals \$180.12.

If you have any questions concerning the noted case, you may contact counsel for the common fund, Laurie Wallace, at 5 Highway 2 East, P.O. Box 2020, Columbia Falls, Montana, 59912. Ms. Wallace may be reached at 1-(800)-354-3262.

If you dispute our determination, please send your concerns or objections in writing, along with any other documentation you feel supports your position. Please limit those comments to the *Schmill* benefit issue only. If you have any questions regarding this issue or your claim, please do not hesitate to contact me.

Sincerely,



Mel Pozder,
Claims Examiner

Enclosure

Cc: Workers' Compensation Court
Laurie Wallace

P.O. Box 1748 • Great Falls, MT 59403
Telephone (406) 453-8522 • FAX (406) 453-8630

EXHIBIT 1