

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4723  
Volume XXVI

Missoula, Montana  
May 23, 2017

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 telephonic attorney fee hearing in the above-entitled matter came on at 1:06 p.m. on Tuesday, May 23, 2017. The Honorable David M. Sandler, Judge of the Workers' Compensation Court, presided. The court reporter was David E. Hix.

Petitioner Cassandra Schmill was represented by Laurie Wallace. Respondent Plum Creek Timber Company with subsidiaries Plum Creek Mgmt. Co., LP, Plum Creek Timber Co. Inc., and Plum Creek Timber Co. LP (Plum Creek) were represented by Todd A. Hammer.

Pursuant to established precedent on what satisfies due process, the hearing was held to allow public comment on the attorney fees withheld by Plum Creek for the benefits paid to three identified claimants who have been awarded additional benefits pursuant to the *Schmill* decision, and of which Plum Creek has withheld amounts for the attorney fees. The three claimants are Beverly Horner, Kenneth Luke, and Richard Ruther. Based on Wallace's July 2003 attorney lien, Wallace is asking for a 25% fee on these claimants.

Plum Creek mailed letters to these claimants, advising of the proposed common fund attorney fees to be paid to Wallace that was withheld from their award, and any refund to which they may be entitled. This letter provided an area to indicate the claimants' willingness to attend the public hearing and provided notice of the time and date of this hearing. Based on telephonic communications with Wallace and Hammer, Kenneth Luke and Richard Ruther stated they have no objection to the attorney fee request. Beverly Horner stated in a May 3, 2017, letter that she has no objection to the attorney fee request. None of the claimants appeared at the attorney fee hearing. Plum Creek has no objection to the attorney fees.

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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 and Plum Creek is **ordered** to pay those common fund attorney fees to Wallace as regards to these claimants. Hammer will prepare a proposed Order, approved by Wallace, to dismiss the Plum Creek entities without prejudice.

Wallace will file a final pleading representing that, to the best of her knowledge, all required steps are completed, and move the Court to close the entire case.

An Order will be issued incorporating this minute entry.

Court adjourned at 1:09 p.m.

DAVID M. SANDLER  
Judge

Minute Entry provided to parties of record via website.

DMS/JP

Docket Item No. 739