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Workers' Compensation Court

Mike McCarter
Judge

June 14, 2004

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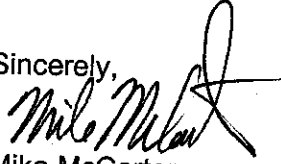
Re: Debra Stavenjord v. Montana State Fund
WCC No. 2000-0207

Dear Counsel:

After our telephone conference regarding matters which are troubling me in this case, it occurred to me that there is an additional matter I would like you to be prepared to discuss on July 14th. The matter is the determination in *Rausch v. State Compensation Ins. Fund*, 2002 MT 203, 311 Mont. 210, 54 P.2d 25, that a common fund existed. That holding implicitly applied the Court's decision retroactively. I wonder what precedent the holding establishes. I do note that the State Fund did not argue the issue in its briefs, however, the Court affirmatively found that a common fund existed. That finding was not dicta.

Thanks!

Sincerely,


Mike McCarter
Judge

MM/pjk
c: Mr. David A. Hawkins & Mr. Greg E. Overturf
Ms. Laurie Wallace
Mr. Larry W. Jones
Mr. Geoffrey C. Angel
Mr. James G. Hunt
Mr. Lucas J. Foust
Mr. Monte D. Beck & Mr. Stephen D. Roberts

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