

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0207

DEBRA STAVENJORD

Petitioner

vs.

MONTANA STATE FUND

Respondent.

**ORDER REQUESTING REPORT OF PROPOSED PROCEDURE TO IDENTIFY
POTENTIAL BENEFICIARIES**

¶ 1 A telephone conference was held in this matter on November 28, 2006. Attending were Thomas J. Murphy, counsel for Petitioner, and Bradley J. Luck and Thomas E. Martello, counsel for Montana State Fund. The purpose of this conference was to determine how this Court would proceed in this matter in light of the Montana Supreme Court's ruling, found at 2006 MT 257, and the court's denial for rehearing, issued November 9, 2006. Specifically, the question was raised as to how this Court can conduct further proceedings in this case when Petitioner's claim is effectively settled, there is no common fund status, and therefore no claimants remain in the remanded case.

¶ 2 Two issues need to be resolved: (1) the determination of an appropriate procedure by which potential *Stavenjord* beneficiaries will be identified and notified of their interests; and (2) whether it is impracticable or impossible to proceed without the assistance of a common fund counsel.

¶ 3 After hearing argument, the Court determined that it needs to be informed about the procedure proposed by Montana State Fund for identifying potential *Stavenjord* beneficiaries before it can determine whether it is impracticable or impossible to proceed without the assistance of common fund counsel.

THEREFORE this Court **ORDERS**:

¶ 4 Within 45 days of this Order, Montana State Fund is to prepare a written report explaining the procedures it intends to follow in determining potential beneficiaries. Montana State Fund is to provide copies of the report to the Court and to Mr. Murphy. The

Court will then schedule a conference to provide it and Mr. Murphy the opportunity to question Montana State Fund's procedures, and for Montana State Fund to address any concerns which are raised. The issue of whether it is impracticable or impossible to proceed without common fund counsel will be addressed after that conference.

DATED in Helena, Montana, this 6th day of December, 2006.

(SEAL)

/s/ JAMES JEREMIAH SHEA
JUDGE

c: Thomas J. Murphy
Bradley J. Luck
Thomas E. Martello