

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0207

DEBRA STAVENJORD

Petitioner

vs.

MONTANA STATE FUND

Respondent.

ORDER INVITING *AMICUS CURIAE* BRIEFING

¶ 1 The issue submitted for decision in this case is whether the proposed procedure Respondent Montana State Fund sets forth in its Report to the Court in response to the Court's Order Requesting Report of Proposed Procedure to Identify Potential Beneficiaries satisfies the Montana Supreme Court's directive that this Court determine whether it is "impracticable or impossible" for Respondent, without the intervention of outside counsel, to determine "an appropriate procedure by which potential *Stavenjord* beneficiaries will be identified and notified of their interests related to increased *Stavenjord*-type PPD benefits."¹

¶ 2 Respondent has asserted that it would not be impracticable or impossible for this case to proceed without the assistance of common fund counsel. In support of this assertion, Respondent has set forth a proposed process in its report which facially appears reasonable to the Court. Before assessing the reasonableness of Respondent's proposal, however, the Court believes it will be productive to invite Stavenjord's counsel to submit a written *amicus* response in advance of the conference which the Court noted would be scheduled in its previous Order Requesting Report of Proposed Procedure to Identify Potential Beneficiaries.²

¶ 3 Stavenjord's counsel shall notify the Court within 10 days of this Order as to whether he intends to file a written *amicus* response addressing the substance of Respondent's Report to the Court. If Stavenjord's counsel chooses to file an *amicus* response, it will be

¹ See *Stavenjord v. Montana State Fund*, 2006 MT 257, ¶ 31, 334 Mont. 117, 146 P.3d 724, and Order, No. 04-737 (Nov. 9, 2006) (denying Petition for Rehearing).

² Docket No. 96, ¶ 4.

due within 30 days after his notification to the Court. A copy should be served upon Respondent's counsel. Upon receipt of Stavenjord's counsel's *amicus* response, a conference will be scheduled to address whether it is impracticable or impossible to proceed without common fund counsel.

DATED in Helena, Montana, this 15th day of February, 2007.

(SEAL)

/s/ JAMES JEREMIAH SHEA
JUDGE

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