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OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

DEBRA STAVENJORD,

Petitioner,

v.

MONTANA STATE FUND,

Respondent/Insurer.

WCC No. 2000-0207

**STATE FUND'S FIRST
STATUS REPORT**

Pursuant to the Court's Order of June 6, 2003, the State Fund hereby files its First Status Report in connection with recent developments in the post-remand proceedings of the above-referenced matter.

A. IDENTIFICATION OF INFORMATION

During the hearing on June 6, 2003, the State Fund indicated its intention to develop and present evidence concerning the entitlement to common fund fees as well as the difficulties which may arise in applying *Stavenjord* retroactively. The Court directed the State Fund to identify, on or before July 3, 2003, the kind of information it wished to develop. The State Fund completed its initial identification of the type of information it would like to present in support of its arguments in this matter, including problems with retrieving closed files, ratemaking concerns, cost implications, and preliminary sample information from occupational disease files. The State Fund reduced that information to writing, sent it to Mr. Murphy on July 3, 2003, and asked him to stipulate to the accuracy of the information. As part of the proposal, the State Fund reserved the right to supplement the initial information if it discovered additional, relevant information at a later date which may have a bearing on the arguments raised in this matter.

Mr. Murphy is still considering the State Fund's request to stipulate to the written information sent to him. Although there are some areas of concern with the proposed stipulation, Mr. Murphy has indicated that he agrees with many of the facts and statements of information contained in the proposed stipulation. The parties are continuing to work through the proposed stipulation in an attempt to present an agreed set of facts and information to use in the briefing stage of the post-remand proceedings. The parties have made substantial progress and have agreed to again discuss the specific areas of concern at 10:00 a.m. on July 18, 2003. If the parties agree on a final version of the proposed stipulation, the State Fund will notify the Court of such an agreement by filing another status report, which will then allow the Court to set a briefing schedule. However, if the parties are unable to agree to a proposed stipulation in its entirety, the parties will request an evidentiary hearing to address the portions of the proposed stipulation to which no agreement was reached.

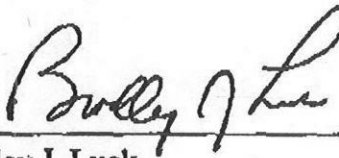
B. CONFIDENTIALITY AGREEMENT

Pursuant to the Court's request, the State Fund drafted a Confidentiality Agreement to allow Mr. Murphy to participate in the identification process. The State Fund forwarded the Confidentiality Agreement to Mr. Murphy for his review and consideration. After the Confidentiality Agreement is signed and returned, the State Fund will forward it to the Court with a proposed order for adoption, per the Court's request.

DATED this 11 day of July, 2003.

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By 
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CERTIFICATE OF MAILING

The undersigned, a representative of the law firm of GARLINGTON, LOHN & ROBINSON, PLLP, hereby certifies that on the 11th day of July, 2003, she mailed a true and correct copy of the foregoing *State Fund's First Status Report*, postage prepaid, to the following:

Thomas J. Murphy
Murphy Law Firm
P.O. Box 3226
Great Falls, MT 59403-3226
Attorneys for Petitioner

