

WORKERS' COMPENSATION COURT

Hearing No. 3461
Volume XVII

Helena, Montana
June 9, 2004

DEBRA STAVENJORD

Thomas J. Murphy

vs.

MONTANA STATE FUND

Bradley J. Luck and
Thomas J. Harrington

WCC No. 2000-0207

A conference call was held this date with the above counsel.

Instead of the parties filing additional briefs in this matter, the parties shall personally appear before the Court on July 14, 2004, at 10:00 a.m., to discuss the common fund and retroactivity issues.

The parties should be prepared to discuss:

1. How *Schmill* and *Stavenjord* are similar and different;
2. If *Stavenjord* is certifiable as a class, why it would not be a common fund;
3. How *Stavenjord* fits in with the *Murer* (257 Mont. 434, 849 P.2nd 1036), *McDonald*, (261 Mont. 392, 862 P.2nd 1150), and *Boyne* (228 Mont. 314, 742 P.2nd 464) cases;
4. What happens if this Court decides *Stavenjord* is retroactive (does that affect common fund analysis); and
5. Can a common fund be found respecting some years and not others.

The conference call scheduled on June 15th and the oral argument previously scheduled on July 22nd are vacated.

MIKE McCARTER
Judge