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March 3, 2004

VIA TELEFAX AND U.S. MAIL

Hon. Mike McCarter
Workers' Compensation Court
P.O. Box 537
Helena, MT 59624-0537

Re: *Stavenjord v. State Fund WCC No. 2000-0207*
Schmill v. Liberty, WCC No. 2001-0300

Dear Judge McCarter:

During our last conference call, the Court and the parties discussed the issue raised by the State Fund regarding the fairly recent case of *St. James Community Hosp., Inc. v. District Court, Eighth Judicial District*, 2003 MT 261, 317 Mont. 419, 77 P.3d 534 (prohibiting health care providers from producing the names of patients because such information is private and constitutionally protected). As you know, if *Stavenjord* is given retroactive application, the State Fund is concerned that *St. James* may limit its ability to disclose information to Mr. Murphy and Ms. Wallace concerning affected claimants.

During the conference call, the Court and the parties agreed that the protection of the confidentiality agreement currently on file with the WCC allowed the State Fund to provide a list of names to Mr. Murphy and Ms. Wallace. To eliminate concerns over the State Fund's ability to produce medical information to Mr. Murphy and Ms. Wallace during the implementation phase if *Stavenjord* and *Schmill* are applied retroactively, the Court and the parties discussed the idea of obtaining written permission from the affected claimants to allow the State Fund to disclose their medical information to Mr. Murphy and Ms. Wallace. The State Fund finds this approach acceptable and believes it is appropriate in light of *St. James*. Therefore, the State Fund does not intend on including the *St. James* issue in its Opening Brief.

Hon. Mike McCarter

Workers' Compensation Court

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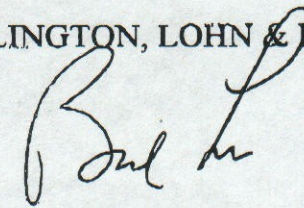
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We have provided two originals so that the Court is able to file an original in *Stavenjord* and an original in *Schmill*. If you have any questions or concerns, please do not hesitate to contact us at 523-2500.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP

By



Bradley J. Luck

TJH:sec

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