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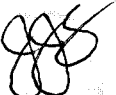
E-MAIL CLERK OF COURT AT:
pkessner@mt.gov

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WORKERS' COMPENSATION COURT

JAMES JEREMIAH SHEA
JUDGE

TO: Common Fund Litigation Files

FROM: James Jeremiah Shea, Judge 

DATE: September 21, 2005

RE: Telephone Conference With John Connor, Chief Criminal Counsel,
Attorney General's Office

A telephone conference was held on September 20, 2005, with myself and Mr. John Connor, Chief Criminal Counsel of the Attorney General's Office. Also present on the line was Jackie Bockman, Deputy Clerk of Court. The purpose of the call was to discuss the issue of whether out-of-state attorneys, claims adjusters and/or representatives appearing on behalf of insurers or self-insureds for the limited purpose of responding to summonses and inquiries in the common fund litigation constituted the unauthorized practice of law.

This question was previously addressed to Mr. Connor by Judge Mike McCarter. However, I wanted independent clarification for my own benefit before moving forward on that issue.

I explained the situation to Mr. Connor and he indicated that this matter would be properly left to my discretion. His agency will only get involved if anyone is practicing law unlawfully. However, the bottom line is, unless there is some especially continuing egregious action that will cause someone harm, his agency does not normally take action. Further, someone normally would need to file a complaint prior to his office taking action.

I will send a letter to Mr. Connor setting forth an explanation of how these cases are proceeding and Mr. Connor will respond via letter his interpretation of the issue.

JJS/jb



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WORKERS' COMPENSATION COURT

JAMES JEREMIAH SHEA
JUDGE

September 21, 2005

Mr. John Connor
Chief Criminal Counsel
Attorney General's Office
215 North Sanders, Third Floor
P.O. Box 201401
Helena, MT 59620-1401

Re: Common Fund - Unauthorized Practice of Law

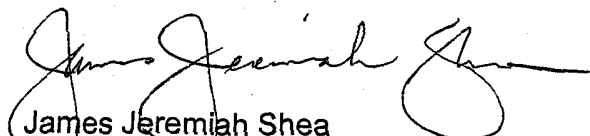
Dear Mr. Connor:

As you are aware, the Workers' Compensation Court has multiple common fund litigation cases. At the outset of these various cases, the Court is asking a group of insurers and self-insureds specific factual questions. Many of these insurers' and self-insureds' principal place of business is out of state. Responses from these businesses vary from a letter response to a sworn affidavit. The question has been raised whether the responding party is performing the unauthorized practice of law.

As you know from our discussion, the Court has taken the position that since the parties are responding to factual questions (e.g., whether they wrote workers' compensation insurance in Montana during a specific period of time or whether they have claims applicable to the particular lawsuit), they are not practicing law. As we discussed during our phone conference, I would appreciate a written confirmation from you that, in your opinion, such insurers and self-insureds are not in violation of any Montana regulation regarding the unauthorized practice of law when they respond to these inquiries from the Court.

Thank you again for your time and assistance in this matter.

Sincerely,
MONTANA WORKERS' COMPENSATION COURT


James Jeremiah Shea
JUDGE

JJS/jb

