

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-2086

KELLY WILD

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer

FILED

JUN 15 2004

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

WCC No. 2001-0294

MARK MATHEWS

Petitioner

vs.

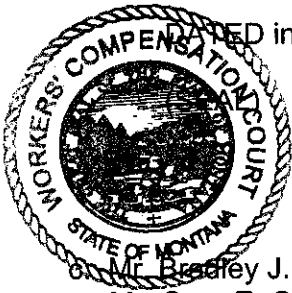
LIBERTY NORTHWEST INSURANCE CORPORATION

ORDER REGARDING PROSPECTIVE CLAIMS
AND COMMON FUND FEES

¶1 Approved as to form and content,

¶2 IT IS HEREBY ORDERED that on this 14th day of June, 2004, the Stipulation Regarding Prospective Claims, which was approved on November 5, 2003, is hereby withdrawn and replaced by this Revised Stipulation Regarding Prospective Claims and Common Fund Fees.

ENTERED in Helena, Montana, this 14th day of June, 2004.



Mark Mathews

JUDGE

Mr. Bradley J. Luck
Mr. Greg E. Overturf
Mr. Geoffrey C. Angel
Mr. Larry W. Jones
Mr. James G. Hunt

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Montana State Fund
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Attorney for Respondent

FILED

JUN 14 2004

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

<p>KELLY WILD, Petitioner, vs. MONTANA STATE WORKERS' COMPENSATION, Respondent. and MARK MATHEWS, Petitioner, vs. LIBERTY NORTHWEST INSURANCE CORPORATION, Respondent.</p>	<p>WCC NO. 2001-0286 WCC NO. 2001-0294 REVISED STIPULATION REGARDING PROSPECTIVE CLAIMS AND COMMON FUND FEES</p>
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6-9-04

MAR 05 2004

COME NOW the parties, by and through counsel, and hereby stipulate as to the dates to use for prospectively implementing *Wild v. Montana State Fund*, 2003 MT 115, 315 Mont. 425, 68 P.3d 855 and *Mathews v. Liberty Northwest Ins. Corp.*, 2003 MT 116, 315 Mont. 441, 68 P.3d 865. For prospective implementation purposes, the parties agree that a claimant's entitlement date for an occupational disease shall be the date a claimant's occupational disease is first diagnosed as work-related. Therefore, all claims arising out of occupational diseases which are first diagnosed as work-related on or after April 29, 2003, the date of the Montana Supreme Court's decisions in *Wild* and *Mathews*, are considered prospective claims. The parties also agree that a claimant's entitlement date for an injury claim shall be the date the injury occurred. Therefore, all claims arising out of injuries which occur on or after April 29, 2003, are considered prospective claims. Common fund fees are not payable on prospective claims.

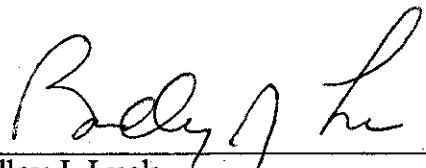
Recent changes to the Workers' Compensation Act prohibit the award of common fund fees on all claims arising on or after April 21, 2003. See Mont. Code Ann. §§ 39-71-611, -612 (2003); Senate Bill 450, § 6 (2003) (noting that the prohibition on common fund fees was effective on the date of passage and approval, which occurred on April 21, 2003). Therefore, common fund fees, if awarded, are not payable on any claims for injuries which occur on or after April 21, 2003, the effective date of the legislative prohibition on common fund fees. Further, common fund fees, if awarded, are not payable on any claims for occupational diseases which are first diagnosed as work-related on or after April 21, 2003.

DATED this 10 day of ^{June} ~~March~~, 2004.

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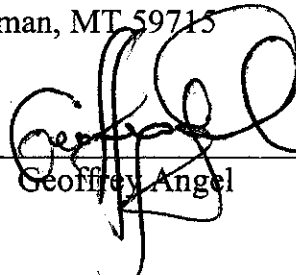
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By 
Bradley J. Luck

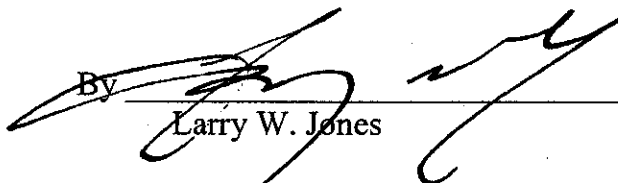
DATED this 7th ^{June} day of ~~March~~, 2004.

ANGEL LAW FIRM
125 W. Mendenhall
Bozeman, MT 59715

By 
Geoffrey Angel

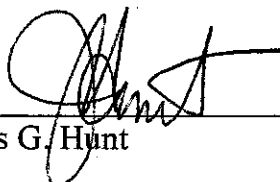
DATED this 8th ^{June} day of ~~March~~, 2004.

JONES & GARBER
700 SW Higgins Avenue, Suite 108
Missoula, MT 59803

By 
Larry W. Jones

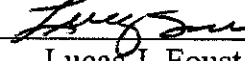
DATED this 8 day of March, 2004.

^{LAW FIRM}
HUNT & MOLLOY
310 Broadway Avenue
Helena, MT 59601

By 
James G. Hunt

DATED this 12th day of March, 2004.

FOUST LAW OFFICE
2135 Charlotte Street, Suite 1A
Bozeman, MT 59715

By 
Lucas J. Foust

APPROVED as to form and content and SO ORDERED on this ____ day of _____, 2004. The Stipulation Regarding Prospective Claims, which was approved on November 5, 2003, is hereby WITHDRAWN and REPLACED by this Revised Stipulation Regarding Prospective Claims and Common Fund Fees.

Hon. Mike McCarter
Workers' Compensation Judge