

WORKERS' COMPENSATION COURT

Hearing No. 3534
Volume XVII

Helena, Montana
December 16, 2004

ALEXIS RAUSCH, *et al.*

Lon J. Dale
Monte D. Beck
Stephen D. Roberts

vs.

MONTANA STATE FUND

Greg E. Overturf
Bradley J. Luck
Thomas J. Harrington
Thomas E. Martello
Geoffrey C. Angel

and

JEREMY RUHD

vs.

LIBERTY NORTHWEST
INSURANCE CORPORATION

Carrie L. Garber
Larry W. Jones

WCC No. 9907-8274R1

An in-person conference was held Thursday, December 16, 2004, at 11:00 a.m., in the Workers' Compensation Court, Helena, Montana. The Honorable Mike McCarter, Judge of the Workers' Compensation Court, presided. Petitioners Mr. Alexis Rausch, Mr. Charles Fisch, and Mr. Thomas Frost were represented by Mr. Lon J. Dale, Mr. Monte D. Beck, and Mr. Stephen D. Roberts by telephone. Petitioner Mr. Jeremy Ruhd was not represented at the conference. Respondent Montana State Fund was represented by Mr. Bradley J. Luck, Mr. Thomas J. Harrington, Mr. Greg E. Overturf, and Mr. Thomas E. Martello. Respondent Liberty Northwest Insurance Corporation was represented by Mr. Larry W. Jones. Other parties present were Ms. Carol Gleed, Ms. Diana K. Ferriter, Ms. Cris McCoy, and Ms. Nancy Butler. The court reporter in this matter was Ms. Lisa Lesofski.

Colloquy was held between all counsel to discuss the proposed Summons to be served on the insurers of prospective claimants. The Court will redraft the Summons with language that will require the insurers to file any objections they may have with the Court, and other minor clarification language. The Court will be serving the Summons on the insurers by regular mail. The Court will document and keep counsel informed as to whether the insurers have responded to the Summons. If an insurer has not responded and service must be perfected in an alternative fashion, the parties will bear the cost of this service.

Rausch v. Montana State Fund
December 16, 2004
Page 2

There appears to be a discrepancy with the number of temporary totally disabled claimants reported by the Department of Labor and Industry. Ms. Diana Ferriter or Ms. Carol Gleed will research this issue and apprise Court and counsel of her findings.

The Court will await the Supreme Court's action on the petition for writ of supervisory control in *Flynn*. Assuming the Supreme Court leaves the procedure outlined in my order in that case intact, I contemplate providing counsel for claimants with all access to claimant information necessary to implement the common fund. A confidentiality agreement will be redrafted to protect the information from further dissemination.

State Fund has one claimant left to be paid, and they will no longer be an active participant in the above lawsuit.

Court adjourned at 12:12 p.m.

MIKE McCARTER
Judge