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**FILED**

OCT 17 2002

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

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IN THE WORKERS' COMPENSATION COURT FOR  
THE STATE OF MONTANA  
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CHARLES FISCH, individually  
and on behalf of others similarly  
situated,

Petitioner,

-vs-

STATE COMPENSATION  
INSURANCE FUND,

Respondent.

WC Court No: 2000-0023 E /

**IN RE RAUSCH, FISCH AND FROST  
NOTICE TO PLAN 1 SELF INSURED  
AND PLAN 2 CARRIERS OF  
PETITIONERS' COMMON FUND  
ATTORNEY FEE LIEN**

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THOMAS FROST, individually  
and on behalf of others similarly  
situated,

WC Court No: 2000-0030 R1

Petitioner,



vs-

STATE COMPENSATION  
INSURANCE FUND,

Respondent.

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ALEXIS RAUSCH, as the Conservator for  
KEVIN RAUSCH,

 Court No: 9907-8274 R1 

Petitioner,

vs-

STATE COMPENSATION  
INSURANCE FUND,

Respondent.

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COME NOW, the Petitioners, by and through their undersigned counsel and herewith notify Plan 1 workers' compensation self insureds and Plan 2 workers' compensation carriers of the Montana Supreme Court Opinion in *Rausch, et al. v. State Compensation Insurance Fund*, Consolidated Cause No. 01-420, 2002 Mont. 203, \_\_\_ P.3d \_\_\_ (2002), in which the Montana Supreme Court determined that all permanently totally disabled claimants similarly situated to Petitioners within the Montana workers' compensation scheme were entitled to impairment awards upon receipt of an undisputed impairment rating. The undersigned herewith notify all Plan 1 participants and Plan 2 carriers of said decision and herewith assert a lien for attorneys' fees based upon the common fund doctrine applicable in this case pursuant to the *Rausch et. al* decision, a copy of which is attached to this notice.

The attorney fee lien claimed is the amount granted by the attorney fee statute on appeal, 25%. In the alternative, the court or the parties may determine reasonable and just fees considering the following factors: the total amount of benefits generated on behalf of the subject pool of claimants; the number claimants entitled to benefits; the length of time, complexity and

cost in determining the amount of benefits and number of claimants; the experience, skill and reputation of counsel pursuing this litigation; and fees customarily charged for similar services. The court will set a hearing at the conclusion of this matter to determine and approve appropriate attorney fees.

Petitioners herewith request the Workers' Compensation Court to order the Division of Workers' Compensation to provide notice of this attorney fee lien to all Plan 1 participants and Plan 2 carriers.

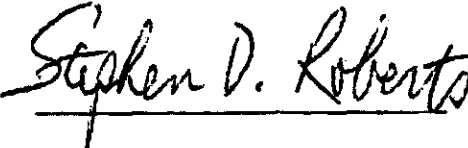
RESPECTFULLY SUBMITTED this 11th day of October 2002.

Attorney for Petitioner Rausch  
WC Court No: 9907-8274

  
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LON J. DALE, ESQ.


Attorney for Petitioner Frost

WC Court No: 2000-0030

  
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STEPHEN D. ROBERTS

Attorney for Petitioner Fisch  
WC Court No: 2000-0023

  
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