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FILED

DEC 27 2007

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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Common Fund Attorneys

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ALEXIS RAUSCH, et al.,

WCC No. 9907-8274R1

Petitioner,

v.

MONTANA STATE FUND, et al.

**STIPULATION FOR PAYMENT
OF COMMON FUND FEES**

Respondent,

and

PETE SHERNER,

Claimant,

v.

CONOCO, INC.,

Employer.

COME NOW Thomas Boland, the attorney for Peter Sherner; Monte Beck, Stephen Roberts and Lon Dale, common fund attorneys; and Cathy Anderson, Adjuster in Charge for Crawford, and by stipulation request a court order approving the payments of common fund attorneys' fees.

FACTUAL BACKGROUND

1. Peter Sherner was insured through his employment with Conoco when he sustained a worker's compensation injury. Peter Sherner's claim is subject to the common fund claims established by this Court as referenced in the subsequent paragraph.

2. That the attorneys establishing the common fund for impairment benefits pursuant to the Montana Supreme Court decisions in *Rausch, et al. v. State Compensation Ins. Fund*, 2002 MT 203, and *Ruhd v. Liberty Northwest v. Fish, Frost, Rausch, as Interveners*, 2004 MT 236 are entitled to common fund fees.

3. Peter Sherner was determined to be permanently and totally disabled. He received an impairment rating resulting in impairment benefits in the amount of Forty-Two Thousand Five Hundred and Sixty and no/100ths Dollars (\$42,560). These funds are being retained by Crawford, the Third Party Administrator (TPA) for the Sherner claim.

4. The common fund attorneys request that the TPA for Conoco pay the attorneys fifteen percent (15%) of the withheld impairment award of Forty-two Thousand Five Hundred Sixty and no/100ths Dollars (\$42,560), i.e. Six Thousand Three Hundred Eighty Four and no/100ths Dollars (\$6,384), as common fund attorneys fees.

5. It is contended a fifteen percent (15%) fee is a fair fee, being a 10% reduction from the 25% lien, and is in accord with established fee statutes, the holding in the two Montana Supreme Court decisions previously referenced, and past worker's compensation decisions related to payment of common fund attorney fees.

6. The parties agree that there is no reason to delay paying the Thirty Six Thousand One Hundred Seventy-Six and no/100ths Dollars (\$36,176) remaining balance to claimant through his attorney Thomas Boland.

7. Before payment of fees can be made by the TPA, Court approval will have to be obtained and a Court Order authorizing payment issued.

WHEREFORE, the parties hereby stipulate:

1. That the Worker's Compensation Court order Crawford/Conoco to pay the amount of Six Thousand Three Hundred Eighty Four and no/100ths Dollars (\$6,384) to the common fund attorneys;

2. That the Crawford/Conoco pay Thirty Six Thousand One Hundred Seventy Six no/100ths Dollars (\$36,176) to Peter Sherner through his attorney Thomas Boland;

3. That the common fund attorneys' fees in the amount of Six Thousand Three Hundred Eighty Four and no/100ths Dollars (\$6,384) shall be requested to be approved by the Workers' Compensation Court, and upon approval shall be paid to Milodragovich, Dale, Steinbrenner & Nygren, P.C.'s Trust Account for equal distribution to the common fund attorneys.

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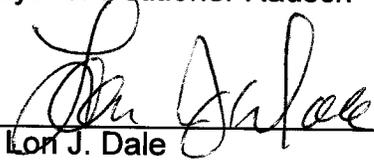
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DATED this 26th day of December, 2007.

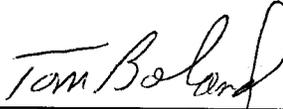
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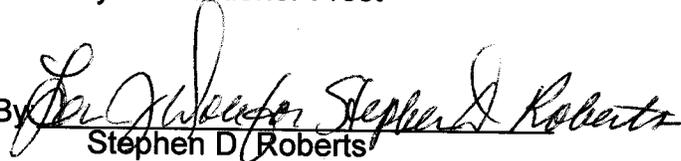

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