

**FILED**

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Monte D. Beck, Esq.  
BECK & AMSDEN, PLLC  
1946 Stadium Drive, Suite 1  
Bozeman, MT 59715  
Telephone: (406) 586-8700  
Attorneys for Petitioner Fisch

Stephen D. Roberts, Esq.  
1700 W. Koch, Suite 5  
Bozeman, MT 59715  
Telephone: (406)586-3100  
Attorney for Petitioner Frost

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

Lon J. Dale, Esq.  
MILODRAGOVICH, DALE  
STEINBRENNER & BINNEY, P.C.  
P.O. Box 4947  
Missoula, MT 59806-4947  
Telephone: (406) 728-1455  
Attorneys for Petitioner Rausch

Thomas A. Marra, Esq.  
2 Railroad Square, Suite C  
P.O. Box 1525  
Great Falls, MT 59403-1525  
Attorney for Respondents/Insurers  
The Travelers Companies

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ALEXIS RAUSCH, et al., )  
Petitioners )  
 )  
-vs- )  
 )  
MONTANA STATE FUND, )  
Respondent/Insurer )  
 )  
and )  
 )  
THE TRAVELERS COMPANIES, )  
 )  
Respondents/Insurers. )  
 )  
\_\_\_\_\_ )

WCC No. 9907-8274R1

**SETTLEMENT STIPULATION RE:  
COMMON FUND ATTORNEYS'  
FEES WITHHELD BY THE  
TRAVELERS COMPANIES**

This settlement stipulation is made and entered into by and between Lon Dale, Monte Beck and Stephen Roberts ("FFR attorneys") and Thomas Marra, attorney for Travelers Companies ("the insurance carriers"). The insurance carriers do not take a position on the amount of the attorneys' fees, but seek this Court's approval via an authorizing order.

Rather than the maximum fee allowed by statute, the FFR attorneys have agreed to the same fee schedule approved by this Court in its July 10, 2003 Attorney Fee Order and Judgment in Rausch v. Montana State Fund, and to accept a fee of 15% of any impairment award paid to a claimant less than 60 years of age, 10% if the claimant is age 60 or 61, and 5% if the claimant is age 62 or 63. The ages are as of the date of the Supreme Court decision in Rausch, i.e., September 5, 2002.

**1. The Following Fees Have Been Withheld:**

Lawrence Dormady, 25% whole person impairment, 87.5 weeks of PPD benefits at \$190 per week, total impairment award of \$16,625, with \$12,468.75 (75%) paid to Mr. Dormady, and \$4,156.25 (25%) withheld.

Because Mr. Dormady was 61 years old at the time of the Rausch decision, the common fund attorney fees payable are 10% rather than the full 25%, resulting in a common fund attorney fee of \$1,662.50, with the additional \$2,493.75 of the withheld amount to be paid directly by the Travelers Companies to Mr. Dormady.

Oscar Dominguez received an 11% impairment rating in June 2003, his permanent partial disability rate was \$219.50 per week, resulting in an impairment award equivalent to 38.5 weeks permanent partial disability benefits totaling \$8,450.75. The Travelers paid 75% of the impairment award to Mr. Dominguez, totaling \$6,338.06. The Travelers withheld 25% of the impairment award, totaling \$2,112.69. Mr. Dominguez's date of birth is April 8, 1955, making him 46 years old at the time of the Rausch decision, resulting in a common fund attorney fee of 15%. Upon approval of this payment by the Court, the Travelers will forward the \$1,267.61 common fund attorney fee to the common fund attorneys, and will forward the remaining \$845.08 of the withheld amount to be paid directly by the Travelers Companies directly to Mr. Dominguez.

**2. No Out-of-Pocket Sums To Be Paid By Claimants**

The FFR attorneys have agreed that no claimant will be required to pay sums out-of-pocket as recouped common fund attorneys' fees.

### **3. Notification to Claimants**

Thomas Marra, attorney for the Travelers Companies, hereby agrees to serve notice by certified mail to Lawrence Dormady and Oscar Dominguez of the attorneys' fees claimed from the attorneys' fees withheld. Said notification shall be mailed to the claimants' address as determined by a reasonable investigation. Each claimant will be given three weeks from the time of mailing within which to object. In the event of an objection, Claimants shall be required to file their written objections with the Workers' Compensation Court and Mr. Marra. Further, Mr. Marra shall advise the Court by affidavit at the conclusion of the three weeks, confirming notice to claimants and status of any objections. There being no objections, and upon order from the Workers' Compensation Court, the insurance carriers through their attorney will promptly thereafter send equal one-third payments of the aggregate attorney fees to each of the three FFR attorneys.

DATED this 24<sup>th</sup> day of September, 2008.

Stephen D. Roberts, Esq.  
1700 W. Koch, Suite 5  
Bozeman, MT 59715

Attorney for Petitioner Frost

By: Stephen D. Roberts  
Stephen D. Roberts, Esq.

DATED this 29<sup>th</sup> day of September, 2008.

BECK & AMSDEN, PLLC  
1946 Stadium Drive, Suite 1  
Bozeman, MT 59715

Attorneys for Petitioner Fisch

By: Monte Beck  
Monte D. Beck, Esq.

DATED this 30<sup>th</sup> day of September, 2008.

MILODRAGOVICH, DALE,  
STEINBRENNER & BINNEY, P.C.  
P.O. Box 4947  
Missoula, MT 59806-4947

Attorneys for Petitioner Rausch

By: Lon J. Dale  
Lon J. Dale, Esq.

DATED this 13<sup>th</sup> day of November, 2008.

Thomas A. Marra, Esq.  
2 Railroad Square, Suite C  
PO Box 1525  
Great Falls, MT 59403-1525

Attorney for Respondents/Insurers  
The Travelers Companies

By:

  
Thomas Marra

DATED this 6 day of November, 2008.

THE TRAVELERS COMPANIES

By:

  
Title

Dara H. Mason  
Associate Counsel

APPROVED AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2008.

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HON. JAMES J. SHEA  
Workers' Compensation Court Judge

c: Lon J. Dale, Esq.  
Monte D. Beck, Esq.  
Stephen D. Roberts, Esq.  
Thomas Marra, Esq.