

Lon J. Dale, Esq.
MILODRAGOVICH, DALE &
STEINBRENNER, P.C.
620 High Park Way
P.O. Box 4947
Missoula, Montana 59806-4947
(406) 728-1455
(406) 549-7077 fax

FILED

NOV 18 2014

OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

Monte Beck, Esq.
BECK & AMSDEN, PLLC
1946 Stadium Drive, Suite 1
Bozeman, MT 59715
(406) 586-8700
(406) 586-8960 fax

Stephen D. Roberts, Esq.
ATTORNEY AT LAW
1700 W. Koch St. Ste. 5
Bozeman, MT 59715
(406) 586-3100
(406) 585-0087 fax

Common Fund Attorneys

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

RAUSCH/FISCH/FROST COMMON FUND,) WCC No. 9907-8274R1
)
)
) **MOTION TO REOPEN COMMON**
) **FUND CASE FOR DISBURSEMENT**
) **OF ATTORNEY FEES and**
) **TERMINATE NOTICE OF LIEN**

COME NOW the Common Fund Attorneys and submit this motion to reopen the Rausch/Fisch/Frost Common Fund case.

BACKGROUND:

- 1) By decision of the Montana Supreme Court in *Rausch, et al. v. State Compensation Insurance Fund*, 2002 MT 203, a common fund was established by this Court.
- 2) On January 23, 2003, Judge Mike McCarter sent an Order and Notice of Claim of Attorney Lien to all workers' compensation insurers in the State.

- 3) On December 11, 2007, this Court issued its Order of Payment of Interim Attorneys' Fees and set forth a procedure for review and settlement of attorney fee claims on potential common fund cases.
- 4) Pursuant to the procedure set forth in this Court's December 11, 2007, Order, the Common Fund Attorneys thoroughly reviewed the records submitted by insurers regarding potential common fund claimants, submitted stipulations for payment of applicable Common Fund Attorneys' fees when funds were due from workers, and resolved lien claims directly with insurers when there was a failure to withhold as required by the lien notice.
- 5) The Common Fund Attorneys believed all known cases were resolved and so advised the Court. The Court entered an Order on May 13, 2014, closing the common fund cases and releasing the common fund attorneys.
- 6) Subsequent to the entry of the Order, Brentwood Services advised that they had withheld payment to be made to the Common Fund Attorneys for fees due for 25% of an impairment with the fee, the amount being \$632.31, regarding worker's compensation claimant Trudy Berdine.
- 7) Currently, the payment from Brentwood is being held in the trust account of Milodragovich, Dale & Steinbrenner, P.C.
- 8) The Common Fund Attorneys request that this common fund case be reopened by Court Order to allow this last payment of fees to Common Fund Attorneys pursuant to prior orders of this Court.
- 9) The Court is advised that if ANY insurers should contact the Common Fund Attorneys in the future regarding fee payments, the Common Fund Attorneys will advise the insurers that the case is closed and any fee amounts are no longer due.
- 10) The Court is also requested to enter an Order terminating the Notice of Lien issued on January 23, 2003.

We hereby request the relief outlined in this motion, including: 1) the reopening of the Rausch/Fisch/Frost Common Fund; 2) the authorization for payment of fees; and, 3) the termination of the Notice of Lien. A proposed Order is submitted herewith.

//

//

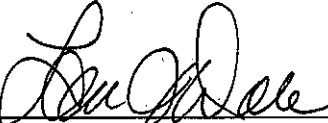
//

Monte Beck, Esq.
BECK & AMSDEN, PLLC

Stephen D. Roberts, Esq.
ATTORNEY AT LAW

Lon J. Dale, Esq.
MILODRAGOVICH, DALE & STEINBRENNER, P.C.

Attorneys for Petitioner Rausch

By: 
Lon J. Dale

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon the following individuals by the means designated below this 14th day of November, 2014:

U.S. Mail
 Email

Monte D. Beck
1946 Stadium Drive, Ste. 1
Bozeman, MT 59715-0655

U.S. Mail
 Email

Stephen D. Roberts
1700 West Koch Street, Ste. 5
Bozeman, MT 59715

U.S. Mail
 Email

Jim.Putman@bwood.com

Jim Putman, Sr. Examiner
Brentwood Services Administrators
536 W. Reserve Dr.
Kalispell, MT 59901


Merrill Dorman

6654/5

L:\worldox\DOCS\CLIENTFL\06654\005\mtr\00547877.WPD