

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4680  
Volume XXV

Missoula, Montana  
August 30, 2016

CASSANDRA SCHMILL

Laurie Wallace

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Larry W. Jones

and

MONTANA STATE FUND

Bradley J. Luck  
Thomas E. Martello

WCC No. 2001-0300

The telephonic attorney fee hearing in the above-entitled matter came on at 1:00 p.m. on Tuesday, August 30, 2016. The Honorable David M. Sandler, Judge of the Workers' Compensation Court, presided at the Workers' Compensation Court, 1625 11<sup>th</sup> Avenue, Helena, Montana. Petitioner Cassandra Schmill was represented by Laurie Wallace. Respondent Liberty Northwest Insurance Corporation (Liberty) was represented by Larry W. Jones. The court reporter was David E. Hix.

Pursuant to established precedent on what satisfies due process, the hearing was held to allow public comment on the attorney fees withheld by Respondent Liberty for the benefits paid to 14 identified claimants who have been awarded additional benefits pursuant to the *Schmill* decision, and of which Liberty has withheld amounts for the attorney fees. The 14 claimants are Kimberly Appel, Norma Cline, Johnny Flores, Donna Goldy, Cornelia Jones, Pamela Jones, Duane Kessel, Marlene Martin, Greg Meyers, Darcy Potter, Sandy Samples, Doug Smith, Janice Sorenson, and Linda Sutich. Based on Wallace's July 2003 attorney lien, Wallace is asking for a 25% fee on these claimants.

Liberty mailed a letter to these 14 claimants, advising of the proposed common fund attorney fees to be paid to Petitioner's counsel that was withheld from their award, and any refund to which they may be entitled. This letter provided an area to indicate the claimants' willingness to attend the public hearing and provided notice of the time and date of this hearing. No claimant appeared at the attorney fee hearing.

Based on the Affidavit of Laurie Wallace, Duane Kessel, Marlene Martin, Greg Meyers, Kimberly Appel, Janice Sorenson, Sandy Samples, Donna Goldy, Darcy Potter, and Doug Smith do not object to the common fund attorney fees. Liberty has no objection to the attorney fees. Given the history and complexity of this litigation and past orders in this case, the Court finds that the 25% attorney's lien is reasonable and appropriate and Liberty is **ordered** to pay those common fund attorney fees to Wallace as regards to these claimants.

As to the returned checks from Cornelia Jones, Pamela Jones, Linda Sutich, and Johnny Flores, per the Order for *Cy Pres* Designation and Release of Certain Funds, these claimants' benefits have been donated to the Montana Justice Foundation. Liberty has no objection to the attorney fees. Given the history and complexity of this litigation and past orders in this case, the Court finds that the 25% attorney's lien is reasonable and appropriate and Liberty is **ordered** to pay the common fund attorney fees to Wallace as regards to these claimants.

As Norma Cline is deceased and the check from Liberty was returned, per the Order for *Cy Pres* Designation and Release of Certain Funds, her benefit has been donated to the Montana Justice Foundation. Liberty has no objection to the attorney fees. Given the history and complexity of this litigation and past orders in this case, the Court finds that the 25% attorney's lien is reasonable and appropriate and Liberty is **ordered** to pay the common fund attorney fees to Wallace as regards to this claimant.

Jones will confirm that the appropriate checks have been issued pursuant to the Court's Order for *Cy Pres* Designation and Release of Certain Funds, filed as Docket Item No. 636.

Jones will prepare a proposed Order for the Court's issuance, ending Liberty's responsibility in this matter, per stipulation reached by the parties.

Jones updated the Court in *Flynn*, advising that he had sent draft documents to Petitioner's counsel Rex Palmer, with an aim towards conclusion of that case.

An Order will be issued incorporating this minute entry.

Court adjourned at 1:14 p.m.

DAVID M. SANDLER  
Judge

Minute Entry mailed to parties of record on August 31, 2016.