THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

2001 MTWCC 16A-2

WCC No. 9907-8274R1

WCC No. 2000-0023R1

WCC No. 2000-0030R1

ALEXIS RAUSCH, as Conservator for KEVIN RAUSCH

and

CHARLES FISCH, lndividually and on Behalf of Others Similarly Situated

and

THOMAS FROST, Individually and on Behalf of Others Similarly Situated

Petitioners

vs.

MONTANA STATE FUND

Respondent/lnsurer.

ORDER FOR NOTIFICATION OF COMMON FUND FEE SETTLEMENT
AND HEARING DATE

As result of a decision by the Montana Supreme Court on September 5, 2002 in the above-captioned case, Petitioners have established your right to receive additional workers compensation benefits in the form of an immediate payment of an impairment award. You have been identified as a claimant who is entitled to additional benefits. Your entitlement to additional benefits will automatically be calculated by the Montana State Fund in the next several months. ***There is no need for you to take any action to receive the additional benefits. Please do <u>NOT</u> contact the Montana* State *Fund or the Court about this entitlement.***

Since the Petitioners in this case established the legal precedent for the additional benefits, the Montana Supreme Court has determined that their attorneys are entitled to recover attorneys fees in some amount from these increased benefits. The attorneys fees will be payable from all additional benefits from the impairment award that were obtained from the period of July 1, 1991 to September 5, 2002. The specific amount of the attorneys

fees must stUl be determined. The Petitioners and the Montana State Fund propose that the attorneys fees be fixed at 15% of the additional benefits for claimants who were under 60 years of age on September 5, 2002; 10% of the additional benefits for claimants who were 60 or 61 years of age on September 5, 2002; 5% of the additional benefits for claimants who were 62 or 63 years of age on September 5, 2002; and 0% of the additional benefits for claimants who were 64 years of age or older on September 5, 2002. If the proposal is approved by the Montana Workers Compensation Court, the attorneys fees will be deducted from the additional benefits prior to the time the benefits are distributed to the claimants.

The Court is not bound by the agreement of the parties and may set the amount of the attorneys fees at some other level. The Court has scheduled a hearing to determine the amount of attorneys fees, which you are invited to attend on the **8th day of July, 2003, in Helena, Montana at 10:00a.m. The hearing will be held in the Courtroom of the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana.**

YOU HAVE THE RIGHT TO BE PRESENT AT THAT HEARING AND TO VOICE YOUR SUPPORT FOR OR OBJECTION TO THE PROPOSED ATTORNEYS FEES. YOU MAY ALSO FILE A WRITTEN STATEMENT SUPPORTING OR OBJECTING TO THE PROPOSED ATTORNEYS FEES BY MAILING YOUR STATEMENT TO THE WORKERS COMPENSATION COURT, P.O. BOX 537, HELENA, MONTANA, 59624-0537, NO LATER THAN JULY 1, 2003. ***All oral and/or written comments should be limited to the proposed attorneys* fees.**

Dated in Helena, Montana, this 6th day of May, 2003.

\s\ *Mike McCarter*
Mike McCarter
Judge

c: Mr. Lon J. Dale
Mr. Monte D. Beck
Mr. Stephen D. Roberts
Mr. Bradley J. Luck
Mr. Greg E. Overturf