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July 6, 2015

Margaret Weddell, Board Member
2801 - 25th Street SE, Suite 150
Salem, OR 97302

RE: Attorney Fee Concepts

Dear Board Member Weddell:

This letter is intended to confirm our recent conversation regarding two concepts that I think are worthy of Board discussion as we move forward to implement House Bill 2764. The first concept would be to overrule case law that says that claimant attorneys may not include the time of legal assistants in calculating an appropriate attorney fee for work on a case, unless the legal assistant was performing legal research.

As a practical matter, I do my own legal research, which I can do much faster and better than any of my legal assistants would be able to. We know from bills that we receive from defense lawyers that they are able to charge for work performed by their legal assistants, and as I understand the legislative policy of HB2764, it is to, as much as possible, level the playing field between the defense and the claimant bar.

I think rule-making in this particular instance is a better way of changing the law rather than having the Board disavow prior case precedent. I realize it is not as significant a problem, given the fact that the Board is rule-making body and can make changes through case law but this is a cleaner, better way to announce the policy and to do it in a more straightforward manner.

Next, I would like to propose as a concept that OAR 438-015-0010(4)(g) be changed again to reflect the intent as I understand HB2764 to require consideration of the contingent nature of claimant attorneys' practices.

Finally, as I indicated to you on the phone, I appreciate that the Board has a relatively short period of time within which to implement HB2764 and any other concepts that it wants to, and time is of the essence for them. Unfortunately, the summer is a very difficult time for all of us to schedule around and I will be out of town on the 9th. I look forward to supplying the Board any assistance that I can.

Very truly yours,



CHRISTOPHER D. MOORE
CDM/arm
cc: Chris Frost

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