



Operating Engineers Local 825 Fund Service Facilities

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EMPLOYER TRUSTEES

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ADMINISTRATOR



UNION TRUSTEES

GREGORY LALEVEE, *CHAIRMAN*
JAMES MCGOWAN
MATTY WHITE
JOHN WOOD

Date: _____

Participant/Dependent: _____

Date of Illness/Injury: _____

Dear Member:

When a third party is liable for expenses incurred by you or a dependent for an illness or injury for which benefits may be payable under the Welfare Plan, the Plan retains reimbursement and subrogation rights.

The Plan's right of reimbursement provides that in the event you or your dependents recover any monies from a third party responsible for an illness or injury, you will pay the Plan for any benefits paid as a result of such illness or injury. If you or your dependents fail to take any action directly against the third party, the Plan's subrogation rights allow the Plan to seek recovery directly against the third party for benefits paid as a result of such illness or injury.

As a condition to the payment of benefits for the illness or injury referenced above, the Plan requires that you or your dependent fully complete and execute the enclosed Assignment and Subrogation Agreement.

Sincerely,

Claims Department

ASSIGNMENT AND SUBROGATION AGREEMENT

1. Name & Address of Participant: _____

2. Name & Address of Dependent receiving benefits, if applicable:

3. (a) Date of Injury or Occurrence which resulted in the treatment: _____

- (b) How did injury or accident occur? _____

4. Did the injury or accident occur at work? { } Yes { } No If yes, name
and address of employer: _____

5. If not work related, who is the person that you believe is responsible for
compensating you for your injury? _____

6. Name & Address of Insurance Company or other entity covering party against
whom the claim is being made; or if no insurance covers such party, the name
and address of such other party or entity: _____

7. (a) Name, Address and Telephone Number of Attorney representing Participant
and/or Dependent: _____

- (b) Has a lawsuit been filed? { } Yes { } No If yes, please identify the case
caption and provide the court docket number.

Case Caption: _____

Court Docket Number: _____

In return for and in consideration of the Local 825 Operating Engineers Welfare Fund ("Fund") advancing payment of medical, hospital or similar bills and/or disability payments (collectively hereafter "Benefit"), for or on behalf of the Participant or dependent (hereafter "Participant"), which Benefit shall be made by the Fund in accordance with the Plan of the Fund, during the pendency of the attempt by the Participant to obtain payment from other parties, for the injury or occurrence which occurred on the date above noted, the undersigned Participant does hereby promise to pay and assign, transfer and subrogate to the Fund all rights, claims, interest and rights of action, to the extent of the amount of said Benefit paid by the Fund, that the Participant receives from and/or claim it may have against such party. The Participant hereby warrants that no settlement shall be made with any party without written consent of the Fund, and the Fund's right or reimbursement does not depend upon how the settlement or judgment is designated, framed or structured.

In any action by Participant against any party, the Fund shall be subrogated to the right of claimant insofar as necessary to reimburse the Fund for all sums paid by it or assumed to be paid by it for said Benefit. Furthermore, the Participant does hereby assign and transfer to the Fund either rights to such portion of any judgment, settlement or the like, including (but not limited to), Section 20 Workers' Compensation settlements which is equal to the amount paid by the Fund for such Benefits, regardless of whether the judgment or the settlement expressly denominated such monies as being by way of reimbursement for such Benefit, **and regardless of whether such judgment or settlement makes the participant "whole"**.

AUTHORIZATION:

I hereby authorize and direct my attorney to pay directly to the Local 825 Operating Engineers Welfare Fund ("Fund") such sums which may be due and owing them for benefits advanced on my behalf in accordance with the attached Assignment and Subrogation Agreement relating to the accident and by reason of medical bills and/or disability payments or similar payments stemming from the action and to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said Fund and I hereby further give a lien on my case to said Fund against any and all proceeds of my settlement, judgment or verdict which may be paid to you, my attorney, or myself as a result of the injuries for which I have been treated or injuries in connection therewith.

I agree never to rescind this document and that a rescission will not be honored by my attorney. I hereby instruct, in the event another attorney is substituted in this matter, that the new attorney honor this lien as inherent to the settlement enforceable on the case as if it were executed by him.

Further, to the extent that I fail or refuse to take action directly against a Third party, I hereby transfer to the Fund any rights I have to take legal action against such Third Party with respect to benefits paid by the Fund. I agree to cooperate fully with the Fund in asserting its subrogation rights.

(Participant)

The undersigned shall notify or cause his/her attorney or representative to notify the party against whom the Participant makes any claim or institutes any action of the rights of this Fund under this Agreement and to forward a copy of this Agreement to such party. Upon reasonable request by the Fund, the Participant agrees to advise the Fund of the status of his/her claim against such party and does hereby authorize his/her attorney to so advise the Fund.

Signed on this _____ day of _____, 20__.

Signature of Participant: _____

Signature of Dependent, if dependent is claimed (dependent under 18 years of age need not sign): _____

I certify that the above statements are true.

Signature of Participant

Social Security Number

Witness

Agreed to and accepted by attorney. Attorney also agrees in the event this file is transferred to a substituting attorney, this letter will also be forwarded to that attorney with the file and the notice of the substitution sent to the Fund by said attorney.

(Attorney)