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OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ALEXIS RAUSCH, et al.)	WCC No. 9907-8274R1
)	
Petitioners,)	
)	
vs.)	
)	WAUSAU UNDERWRITERS
MONTANA STATE FUND,)	INSURANCE COMPANY'S
)	RESPONSE TO SUMMONS
Respondent/Insurer,)	
)	
and)	
)	
JEREMY RUHD,)	
)	
Petitioner,)	
)	
vs.)	
)	
LIBERTY NORTHWEST INSURANCE CORP.,)	
)	
Respondent/Insurer.)	

COMES NOW Wausau Underwriters Insurance Company and responds to the Court's Summons. Wausau Underwriters Insurance Company makes its appearance in this proceeding by this pleading.

In the Summons Wausau Underwriters Insurance Company is listed as an insurer required to respond. During a recent hearing Judge McCarter ruled Liberty Northwest Insurance Corporation could respond by referencing the undersigned's letter, attached, of November 23, 2004. Wausau Underwriters Insurance Company makes the same response.

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DATED this 14th day of February, 2005.



Larry W. Jones
Attorney for Respondent/Insurer

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2005, I served the original of the foregoing WAUSAU UNDERWRITERS INSURANCE COMPANY'S RESPONSE TO SUMMONS, first-class mail, postage prepaid, on the following:

Ms. Patricia J. Kessner
Clerk of Court
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624-0537


Cindy Brown Felton

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November 23, 2004

Via Fax to (406) 444-7798 and U.S. Mail

Honorable Mike McCarter
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624

RE: Rausch, et al. v. Montana State Fund
Ruhd v. Liberty Northwest Insurance Corporation
WCC No. 9907-8274R1

Dear Judge McCarter:

Thank you for your letter of November 17, 2004, attached to which was a draft Summons.

In your letter you invited further comment and suggestions. As I hope you will remember in the Cheetham v. LNW case you issued a confidentiality/protective order that allowed Dave Lauridsen to review the files Liberty identified that could have fallen under his common fund attorney fee claim. Dave then reviewed those files and the matter was resolved.

I was hoping the same procedure could be followed in this case, after all implementation issues have been resolved, by providing the common fund attorneys with the PTD claims that have been identified by Liberty and ERD searches after which they could go through the hard copy files to develop much if not all of the other information outlined in ¶¶1-9 of your Summons.

A major benefit of this procedure is that it allows the common fund attorneys to satisfy themselves about the key facts that may give rise to an entitlement to common fund attorney fees. If the insurer is required to go through all of these files and provide the information set forth in your Summons, then the common fund attorneys may want to duplicate exactly the same effort.

Also I believe as a matter of equity the common fund attorneys who are claiming the fee should do the work for which they are being compensated by the common fund attorney fees.

As I am sure you know from your extensive involvement in other common fund cases, the work that may be required can be extensive both in time and resources.

TRANSMITTED TO
CLAIMS DEPT.

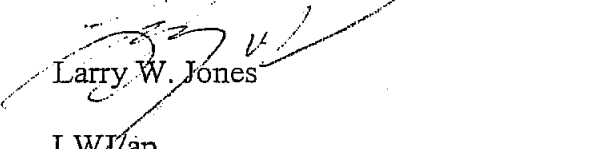
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Therefore I request that the Summons simply be to require the insurers to appear and participate in the common fund proceeding. As I hope you will remember in Dave's case, the method that was followed was both expeditious and resulted in absolutely no disagreements as to what cases fell under the common fund claim or the disposition of those cases.

Thank you for your invitation to comment. By a copy of this letter to all attorneys to whom your letter was sent I am notifying them of this communication with you and Liberty's request.

Very truly yours,



Larry W. Jones

LWJ/ap

c: Lon Dale
Stephen Roberts
Greg Overturf
Thomas Harrington
Mark Cadwallader
Monte Beck
Geoffrey Angel
Bradley Luck
Carrie Garber
Victor Halverson
Rex Palmer
Dianna Ferriter
Carol Gleed
