

**IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA**

**WCC No. 9907-8274R1**

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**ALEXIS RAUSCH, et al.**

**Petitioners**

**vs.**

**MONTANA STATE FUND**

**Respondent/Insurer**

**and**

**JEREMY RUHD**

**Petitioner**

**vs.**

**LIBERTY NORTHWEST INSURANCE CORPORATION**

**Respondent/Insurer.**

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**FILED**

**APR 12 2005**

**OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA**

**ORDER DENYING NORTHWESTERN ENERGY'S  
MOTION TO QUASH SUMMONS**

¶1 Northwestern Energy filed a response to the summons served upon it. In that response, it moves to quash the summons on the following grounds:

- a. NorthWestern Energy is not a party to this proceeding.
- b. This is not a class action, and class action claims have not been asserted in this action against any of the self-insureds which have not been made parties to this action.
- c. No dispute between NorthWestern Energy and any claimants injured or suffering occupational diseases since June 30, 1991 exists and/or has

been presented within the meaning of this Court's rules and jurisdictional requirements for the resolution of disputes as set forth in Montana law.

d. NorthWestern Energy has no duty to solicit claims or to advise claimants of their legal rights in regard to said claims. See Ricks v. Teslow Consolidated, 162 Mont. 469, 512 P.2d 1304 (1973); see also Dennehy v. Anaconda Mineral Company, WCC No.: 8612-4030, 1989 WL 253344 (holding that self insured had no trust relationship with claimants.)

e. While the Court's jurisdiction and authority appears to extend to "supervising enforcement of the common fund . . . from all insurers involved" in this action, it does not appear to extend to parties such as NorthWestern Energy which have not been properly made parties to this proceeding, which have not been properly joined by the assertion of class action claims, and which have no duty to solicit claims or advise claimants of their legal rights in regard to such claims. The Montana Supreme Court did not intend to do contravene such law by its statements in Rausch et. al. v. State Compensation Ins. Fund, 2002 MT 203, 311 Mont. 210, 54 P.3d 25 and Ruhd v. Liberty Northwest Ins. Corp., 2004 MT 236, 322 Mont. 478 (Ruhd If), decided August 31, 2004.

¶2 All of the grounds were previously addressed in this Court's Order denying a motion to quash filed by several other insurers and self insurers. (2005 MTWCC 9.) For the same reasons set out in that Order, the motion in the present case is **denied**. The summons joined Northwestern Energy as a party respondent.

SO ORDERED.

DATED in Helena, Montana, this 10<sup>th</sup> day of April, 2005.



A handwritten signature in black ink, appearing to read "Mike Mula", is written over a horizontal line.

JUDGE

c: E-mailed to Rausch Distribution List - (April 12, 2005)