

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

**FILED**

CASSANDRA SCHMILL

JAN - 9 2006

Petitioner

vs.

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

MONTANA STATE FUND

Intervenor.

AFFIDAVIT

STATE OF KANSAS )  
 ) : ss.  
County of JOHNSON )

¶1 I, DAVID NEWKIRK (NAME), being first duly sworn upon oath, depose and say:

¶2 I, DAVID NEWKIRK (NAME), am the VICE PRESIDENT (POSITION) of \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as VICE PRESIDENT (POSITION) of EMPLOYERS REINSURANCE CORPORATION (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of ERC (NAME OF INSURER OR SELF-INSURER) and to bind ERC (NAME OF INSURER OR SELF-INSURER) by these statements. ("ERC")

¶4 After a review of our records, I swear under oath that EMPLOYERS REINSURANCE CORPORATION (NAME OF INSURER OR SELF-INSURER) should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- EMPLOYERS REINSURANCE CORPORATION (NAME OF INSURER OR SELF-INSURER) has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) was or is in liquidation during the period in question set forth in the amended summons served upon me.

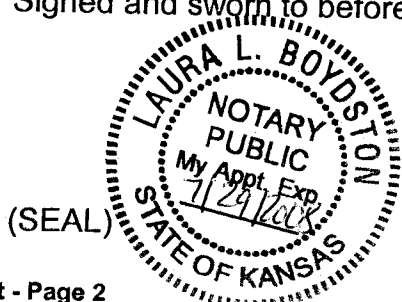
¶5 I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which Petitioner's counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER). After such 90 days, if no objection is lodged by the Petitioner's counsel, the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

¶6 I declare under penalty of perjury that the foregoing is correct.

DATED this 28 day of DECEMBER, 2005

[Signature]  
 \_\_\_\_\_  
 (Name)  
VICE PRESIDENT  
 \_\_\_\_\_  
 (Title)

Signed and sworn to before me this 3 day of JANUARY, 2006.



Laura L. Boydston  
 Notary Public for the State of KANSAS  
 Residing at: Overland Park, KS  
 My Commission Expires: 7/29/2008