

**FILED**

JAN 13 2006

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA  
OFFICE OF WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

WCC No. 2001-0300

**CASSANDRA SCHMILL**

Petitioner

vs.

**LIBERTY NORTHWEST INSURANCE CORPORATION**

Respondent/Insurer

**MONTANA STATE FUND**

Intervenor.

**AFFIDAVIT**

STATE OF Georgia )  
County of Fulton ) : ss.

¶1 I Henry L. Sivley (NAME), being first duly sworn upon oath, depose and say:

¶2 I, Henry L. Sivley (NAME), am the Asst. Deputy Liquidator (POSITION) of International Indemnity (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as Asst. Deputy Liquidator (POSITION) of International Indemnity Co. (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of International Indemnity Co. (NAME OF INSURER OR SELF-INSURER) and to bind International Indemnity Co. (NAME OF INSURER OR SELF-INSURER) by these statements.

¶4 After a review of our records, I swear under oath that International Indemnity Co. (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):

DOCKET ITEM NO. 140

- International Indemnity Co (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- International Indemnity Co (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- International Indemnity Co (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.

¶15 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 International Indemnity Co (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.

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

DATED this 10th day of January, 2006.

[Signature]  
 \_\_\_\_\_ (Name)  
Assistant Deputy Liquidator  
 \_\_\_\_\_ (Title)

Signed and sworn to before me this 10th day of January, 2006.

J. Wendy Williams  
 Notary Public for the State of Georgia  
 Residing at: Fulton County  
 My Commission Expires: 4/26/08

(SEAL)

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL

**FILED**

Petitioner

DEC - 7 2005

vs.

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

and

MONTANA STATE FUND

Intervenor.

**AMENDED SUMMONS AND NOTICE OF ATTORNEY FEE LIEN**

A T & T COMMUNICATIONS INC  
ACCEPTANCE INDEMNITY INS CO  
ACE AMERICAN INSURANCE COMPANY  
ACE AMERICAN REINSURANCE CO  
ACE FIRE UNDERWRITERS INS CO  
ACE INDEMNITY INSURANCE COMPANY  
ACE PROPERTY & CASUALTY INS CO  
ACIG INS CO  
ADVANTAGE WORKERS COMP INS CO  
AIG NATIONAL INSURANCE COMPANY  
AIG PREMIER INSURANCE COMPANY  
AIU INSURANCE CO  
ALAMANCE INSURANCE COMPANY  
ALASKA NATIONAL INS CO  
ALBERTSONS INC  
ALEA NORTH AMERICA INS CO  
ALLIANZ GLOBAL RISKS US INSURANCE  
CO  
ALLIED MUTUAL INSURANCE CO  
ALLIED PROPERTY & CASUALTY  
INSURANCE COMPANY  
ALLMERICA FINANCIAL ALLIANCE INS CO

ALLSTATE INSURANCE CO  
AMCO INSURANCE COMPANY  
AMERICAN ALTERNATIVE INS CORP  
AMERICAN AMBASSADOR CASUALTY CO  
AMERICAN AUTOMOBILE INS CO  
AMERICAN CASUALTY CO OF READING  
PA  
AMERICAN CENTENNIAL INSURANCE CO  
AMERICAN CENTRAL INS CO  
AMERICAN COMMERCE INS CO  
AMERICAN CONTINENTAL INSURANCE  
COMPANY  
AMERICAN ECONOMY INS CO  
AMERICAN EMPLOYERS INSURANCE CO  
AMERICAN FIRE & CASUALTY COMPANY  
AMERICAN FUJI FIRE & MARINE INS CO  
AMERICAN GUARANTEE & LIABILITY INS  
CO  
AMERICAN HARDWARE MUTUAL INS CO  
AMERICAN HOME ASSURANCE CO  
AMERICAN INS CO

AMERICAN INTERNATIONAL INSURANCE  
COMPANY  
AMERICAN INTERNATIONAL PACIFIC INS  
CO  
AMERICAN INTERNATIONAL SPECIALTY  
LINES INSURANCE  
AMERICAN INTERSTATE INS CO  
AMERICAN MANUFACTURERS MUTUAL  
INS  
AMERICAN MOTORISTS INSURANCE CO  
AMERICAN MUTUAL INS CO OF BOSTON  
AMERICAN MUTUAL LIABILITY INS CO  
AMERICAN PROTECTION INSURANCE CO  
AMERICAN REINSURANCE COMPANY  
AMERICAN SAFETY CASUALTY INS CO  
AMERICAN STATES INS CO  
AMERICAN STATES PREFERRED  
AMERICAN SUMMIT INS CO  
AMERICAN WEST INSURANCE CO  
AMERICAN ZURICH INS CO  
AMERICAS INSURANCE COMPANY  
AMERISURE MUTUAL INS CO  
AMFAC INC  
ANR FREIGHT SYSTEMS INC  
ARCH INSURANCE COMPANY  
ARCH REINSURANCE COMPANY  
ARGONAUT INS CO  
ARGONAUT MIDWEST INS CO  
ARGONAUT NORTHWEST INS CO  
ARMED FORCES INSURANCE EXCHANGE  
ASH GROVE CEMENT CO  
ASSOCIATED INDEMNITY CORP  
ASSURANCE COMPANY OF AMERICA  
ATHENA ASSURANCE CO  
ATLANTA INTERNATIONAL INS CO  
ATLANTA SPECIALTY INS CO  
ATLANTIC INSURANCE COMPANY  
ATLANTIC MUTUAL INSURANCE CO  
ATLANTIC RICHFIELD CO  
ATLANTIC SPECIALTY INSURANCE  
COMPANY  
ATLAS ASSURANCE CO OF AMERICA  
AUDUBON INSURANCE COMPANY  
AUTOMOBILE INS CO OF HARTFORD  
AVOMARK INS CO  
AXA CORPORATE SOLUTIONS  
INSURANCE CO  
AXA RE AMERICA INS CO

AXIS REINSURANCE COMPANY  
BANCINSURE INC  
BANKERS MULTIPLE LINE INS CO  
BANKERS STANDARD FIRE & MARINE  
BANKERS STANDARD INS CO  
BEATRICE COMPANIES INC  
BENCHMARK INS CO  
BENEFIS HEALTH CARE  
BERKLEY REGIONAL INSURANCE  
COMPANY  
BIRMINGHAM FIRE INS CO OF PA  
BITUMINOUS CASUALTY CORP  
BITUMINOUS FIRE & MARINE INS CO  
BORDEN CHEMICAL INC  
BOSTON OLD COLONY INS CO  
BRISTOL WEST INSURANCE COMPANY  
BROTHERHOOD MUTUAL INS CO  
BROWNING FERRIS INDUSTRIES INC  
CALIFORNIA COMPENSATION INS CO  
CALIFORNIA INDEMNITY INS CO  
CALIFORNIA INSURANCE COMPANY  
CAMDEN FIRE INSURANCE ASSOCIATION  
CATERPILLAR INSURANCE COMPANY  
CENTENNIAL INS CO  
CENTRAL NATIONAL INS CO OF OMAHA  
CENTRE INSURANCE COMPANY  
CENTURION CASUALTY COMPANY  
CENTURY INDEMNITY CO  
CHAMPION INTERNATIONAL CORP  
CHARTER OAK FIRE INS CO  
CHARTWELL REINSURANCE COMPANY  
CHEVRON CORP  
CHS INC  
CHUBB INDEMNITY INS CO  
CHUBB NATIONAL INS CO  
CHURCH MUTUAL INSURANCE CO  
CIM INSURANCE CORPORATION  
CIMARRON INSURANCE CO  
CINCINNATI INS CO  
CINCINNATI CASUALTY COMPANY  
CINCINNATI INDEMNITY COMPANY  
CIRCLE K CORPORATION  
CITY INSURANCE CO  
CLARENDON NATIONAL INS CO  
CLASSIC FIRE & MARINE COMPANY  
CLEARWATER INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY &  
SURETY

COLUMBUS HOSPITAL CORP  
COMBINED BENEFITS INS CO  
COMMERCE & INDUSTRY INS CO  
COMMERCIAL CASUALTY INS CO  
COMMERCIAL COMPENSATION  
CASUALTY INS CO  
COMMERCIAL GUARANTY CASUALTY  
INSURANCE COMPANY  
COMMERCIAL INS CO OF NEWARK NJ  
COMMERCIAL LOAN INS CORP  
CONAGRA FOODS INC  
CONNIE LEE INSURANCE CO  
CONSOLIDATED FREIGHTWAYS CORP  
CONTINENTAL BAKING CO  
CONTINENTAL CASUALTY CO  
CONTINENTAL INS CO  
CONTINENTAL NATIONAL INDEMNITY  
CONTINENTAL REINSURANCE  
CORPORATION  
CONTINENTAL WESTERN INS CO  
CONVERIUM INSURANCE (NORTH  
AMERICA) INC  
CONVERIUM REINSURANCE (NORTH  
AMERICA) INC  
CORE INSURANCE COMPANY  
COREGIS INS CO  
COSTCO WHOLESALE CORP  
COUNTRY CASUALTY INS CO  
COUNTRY MUTUAL INS CO  
COUNTRY PREFERRED INS CO  
CREDIT GENERAL INSURANCE CO  
CUMIS INSURANCE SOCIETY INC  
CYPRUS MINES CORPORATION  
DAIMLER CHRYSLER INSURANCE  
COMPANY  
DAIRYLAND INSURANCE COMPANY  
DAKOTA FIRE INSURANCE COMPANY  
DEPOSITORS INSURANCE COMPANY  
DISCOVER PROPERTY & CASUALTY INS  
CO  
ECONOMY FIRE & CASUALTY CO  
ECONOMY PREFERRED INS CO  
ECONOMY PREMIER ASSURANCE CO  
ELECTRIC INS CO  
EMCASCO INSURANCE COMPANY  
EMPLOYERS CASUALTY COMPANY IN  
RECEIVERSHIP  
EMPLOYERS FIRE INSURANCE CO

EMPLOYERS FIRST INSURANCE  
COMPANY  
EMPLOYERS INS COMPANY OF WAUSAU  
EMPLOYERS MUTUAL CASUALTY CO  
EMPLOYERS REINSURANCE CORP  
ENTECH INC  
ERNST HOME CENTERS  
EULER AMERICAN CREDIT INDEMNITY  
COMPANY  
EVANSTON INSURANCE COMPANY  
EVEREST NATIONAL INS CO  
EVERGREEN NATIONAL INDEMNITY  
EXECUTIVE RISK INDEMNITY INC  
EXPLORER INS COMPANY  
F H STOLTZE LAND & LUMBER CO  
FACTORY MUTUAL INS CO  
FAIRFIELD INS CO  
FAIRMONT INSURANCE CO  
FAIRMONT PREMIER INSURANCE  
COMPANY  
FAIRMONT SPECIALTY INSURANCE  
COMPANY  
FARMERS INS EXCHANGE  
FARMINGTON CASUALTY CO  
FARMLAND MUTUAL INS CO  
FEDERAL EXPRESS CORP  
FEDERAL INS CO  
FEDERATED MUTUAL INSURANCE CO  
FEDERATED SERVICE INSURANCE CO  
FIDELITY & CASUALTY CO OF NEW YORK  
FIDELITY & DEPOSIT CO OF MARYLAND  
FIDELITY & GUARANTY INS CO  
FIDELITY & GUARANTY INS  
UNDERWRITERS  
FIREMANS FUND INS CO  
FIREMANS FUND INS CO OF OHIO  
FIREMANS FUND INS CO OF WISCONSIN  
FIREMENS INS CO OF NEWARK NJ  
FIRST FINANCIAL INSURANCE COMPANY  
FIRST LIBERTY INSURANCE  
CORPORATION  
FIRST NATIONAL INS CO OF AMERICA  
FIRST PROFESSIONALS INSURANCE  
COMPANY INCORPORATE  
FIRST SOUTHERN INSURANCE CO  
FLORISTS MUTUAL INS CO  
FLYING J INC

FOLKSAMERICA REINSURANCE  
COMPANY  
FORT WAYNE HEALTH & CASUALTY INS  
CO  
FORUM INSURANCE CO  
FRANKENMUTH MUTUAL INS CO  
FREMONT IND CO OF THE NORTHWEST  
FRONTIER INSURANCE COMPANY  
GEICO CASUALTY COMPANY  
GEICO INDEMNITY COMPANY  
GENERAL CASUALTY CO OF WISCONSIN  
GENERAL INS CO OF AMERICA  
GENERAL REINSURANCE CORP  
GENERAL SECURITY INSURANCE  
COMPANY  
GENERAL SECURITY NATIONAL  
INSURANCE COMPANY  
GENESIS INSURANCE COMPANY  
GEORGIA PACIFIC CORP  
GERLING AMERICA INSURANCE  
COMPANY  
GLENS FALLS INSURANCE CO  
GOLDEN SUNLIGHT MINES INC  
GOVERNMENT EMPLOYEES INS CO  
GRANITE STATE INSURANCE CO  
GRAY INSURANCE COMPANY  
GREAT AMERICAN ALLIANCE INS CO  
GREAT AMERICAN ASSURANCE CO  
GREAT AMERICAN INS CO OF NEW YORK  
GREAT AMERICAN INSURANCE CO  
GREAT AMERICAN SPIRIT INSURANCE  
COMPANY  
GREAT MIDWEST INS CO  
GREAT NORTHERN INS CO  
GREAT WEST CASUALTY CO  
GREENWICH INS CO  
GROCERS INSURANCE COMPANY  
GUARANTY NATIONAL INSURANCE  
COMPANY  
GUIDANT SPECIALTY MUTUAL INS CO  
GUIDEONE MUTUAL INS CO  
GULF INS CO  
HANOVER INS CO  
HARCO NATIONAL INSURANCE CO  
HARLEYSVILLE INSURANCE COMPANY  
HARTFORD ACCIDENT & INDEMNITY CO  
HARTFORD CASUALTY INS CO  
HARTFORD FIRE INS CO

HARTFORD INS CO OF THE MIDWEST  
HARTFORD UNDERWRITERS INS CO  
HEALTHCARE UNDERWRITERS MUT INS  
CO  
HERITAGE CASUALTY INSURANCE  
COMPANY  
HOLCIM (US) INC  
HOLY ROSARY HOSPITAL  
HOME INDEMNITY CO THE  
HOME INSURANCE CO  
HOMELAND CENTRAL INSURANCE CO  
HOMESITE INSURANCE COMPANY  
HORIZON CMS HEALTHCARE CORP  
HOUSTON GENERAL INSURANCE CO  
HUDSON INSURANCE COMPANY  
ICM INSURANCE COMPANY  
IGF INSURANCE COMPANY  
ILLINOIS NATIONAL INSURANCE  
COMPANY  
IMPERIAL CASUALTY & INDEMNITY  
COMPANY  
IMPERIAL HOLLY CORPORATION  
INDEMNITY INS CO OF NORTH AMERICA  
INDIANA LUMBERMENS MUTUAL INS CO  
INDUSTRIAL UNDERWRITERS INS CO  
INSURANCE COMPANY OF NORTH  
AMERICA  
INSURANCE COMPANY OF STATE OF PA  
INSURANCE COMPANY OF THE WEST  
INSURANCE CORPORATION OF  
HANNOVER  
INSURANCE CORPORATION OF NEW  
YORK  
INTEGON NATIONAL INSURANCE  
COMPANY  
INTERCONTINENTAL INSURANCE CO  
INTERNATIONAL INDEMNITY CO  
INTERNATIONAL PAPER CO  
IOWA MUTUAL INSURANCE CO  
J C PENNEY CORP INC  
J H KELLY INC  
J H KELLY L L C  
K MART CORP  
KANSAS CITY FIRE & MARINE INS CO  
KEMPER CASUALTY INS CO  
KROGER CO THE  
LANCER INSURANCE COMPANY  
LEADER INSURANCE COMPANY

LES SCHWAB TIRE CENTERS OF MONT  
INC  
LEXINGTON INSURANCE COMPANY  
LEXON INSURANCE COMPANY  
LIBERTY INS CORP  
LIBERTY INS UNDERWRITERS INC  
LIBERTY MUTUAL FIRE INS CO  
LIBERTY MUTUAL INS CO  
LIBERTY NORTHWEST INS CORP  
LM INS CORP  
LOUISIANA PACIFIC CORP  
LUMBER MUTUAL INSURANCE CO  
LUMBERMENS MUTUAL CASUALTY CO  
LUMBERMENS UNDERWRITING ALLIANCE  
LYNDON PROPERTY INSURANCE  
COMPANY  
MACO WORKERS COMP TRUST  
MAJESTIC INSURANCE COMPANY  
MARKEL INSURANCE COMPANY  
MARYLAND CASUALTY CO  
MEDICAL ASSURANCE CO INC  
MERASTAR INSURANCE CO  
METROPOLITAN DIRECT PROP & CAS INS  
METROPOLITAN GENERAL INS CO  
METROPOLITAN PROP & CAS INS CO  
MHA WORKERS COMP TRUST  
MIC GENERAL INS CORP  
MIC PROPERTY & CASUALTY INS CORP  
MID CENTURY INS CO  
MIDDLESEX INS CO  
MIDWEST EMPLOYERS CASUALTY CO  
MILLERS FIRST INSURANCE COMPANY  
MILLERS INSURANCE COMPANY  
MILLERS NATIONAL INSURANCE CO  
MISSION AMERICAN INSURANCE CO  
MISSOULA COUNTY  
MISSOULA COUNTY WC GROUP INS  
AUTHORITY  
MITSUI SUMITOMO INS CO OF AMERICA  
MITSUI SUMITOMO INS USA INC  
MODERN SERVICE INSURANCE  
COMPANY  
MONTANA CONTRACTOR COMP FUND  
MONTANA ELECTRIC & TELEPHONE POOL  
MONTANA HEALTH NETWORK WC INS  
TRUST  
MONTANA INS GUARANTY ASSOC  
MONTANA LOGGERS EXCHANGE

MONTANA MUNICIPAL INS AUTHORITY  
MONTANA RESOURCES  
MONTANA SCHOOLS GROUP INS  
AUTHORITY  
MONTANA STATE FUND  
MONTGOMERY WARD & CO INC  
MONUMENTAL GENERAL CASUALTY CO  
MOTORS INSURANCE CORPORATION  
NABISCO INC  
NATIONAL AMERICAN INS CO  
NATIONAL AMERICAN INS CO OF CA  
NATIONAL COLONIAL INS, IN LIQUIDATION  
NATIONAL CONTINENTAL INSURANCE CO  
NATIONAL FARMERS UNION PROP & CAS  
NATIONAL FIRE INS CO OF HARTFORD  
NATIONAL GENERAL INS CO  
NATIONAL INDEMNITY COMPANY  
NATIONAL INSURANCE ASSOCIATION  
NATIONAL INSURANCE UNDERWRITERS  
NATIONAL INTERSTATE INS CO  
NATIONAL SURETY CORP  
NATIONAL UNION FIRE INS OF  
PITTSBURGH  
NATIONWIDE AFFINITY INS CO OF AMER  
NATIONWIDE AGRIBUSINESS INS CO  
NATIONWIDE INS CO OF AMERICA  
NATIONWIDE MUTUAL FIRE INSURANCE  
CO  
NATIONWIDE MUTUAL INSURANCE CO  
NATIONWIDE PROPERTY & CASUALTY  
INS CO  
NAVIGATORS INSURANCE COMPANY  
NEW HAMPSHIRE INS CO  
NIAGARA FIRE INS CO  
NL INDUSTRIES  
NORTH AMERICAN ELITE INSURANCE  
NORTH AMERICAN SPECIALTY INS CO  
NORTH RIVER INS CO  
NORTH STAR REINSURANCE  
CORPORATION  
NORTHBROOK INDEMNITY CO  
NORTHERN ASSURANCE CO OF AMERICA  
NORTHERN INS CO OF NEW YORK  
NORTHLAND CASUALTY COMPANY  
NORTHLAND INSURANCE COMPANY  
NORTHWEST HEALTHCARE CORP  
NORTHWESTERN NATIONAL INS CO OF  
MIL

OCCIDENTAL FIRE & CASUALTY CO OF  
NC  
ODYSSEY AMERICA REINSURANCE CORP  
OHIO CASUALTY INSURANCE COMPANY  
OHIO SECURITY INSURANCE COMPANY  
OLD REPUBLIC INS CO  
OLD REPUBLIC SECURITY ASSURANCE  
COMPANY  
ONE BEACON AMERICA INSURANCE CO  
ONE BEACON INS CO  
OVERSEAS PARTNERS US REINSURANCE  
P I E NATIONWIDE INC  
P P G INDUSTRIES INC  
PACIFIC EMPLOYERS INSURANCE CO  
PACIFIC INDEMNITY CO  
PARTNER REINS CO OF NEW YORK  
PEABODY COAL CO  
PENN STAR INSURANCE COMPANY  
PENNSYLVANIA GENERAL INS CO  
PENNSYLVANIA MANUFACTURERS  
ASSOC  
PENNSYLVANIA NATIONAL MUTUAL  
CASUALTY  
PERMANENT GENERAL ASSURANCE  
CORP  
PETROLEUM CASUALTY CO  
PHICO INSURANCE CO  
PHILLIPS PETROLEUM CO  
PHOENIX INS CO  
PLATTE RIVER INSURANCE COMPANY  
PLUM CREEK MGMT CO LP  
PLUM CREEK TIMBER CO INC  
PLUM CREEK TIMBER CO LP  
PROFESSIONALS ADVOCATE INS CO  
PROGRESSIVE CASUALTY INS CO  
PROPERTY & CASUALTY INS CO OF  
HARTFORD  
PROTECTIVE INS CO  
PROVIDENCE WASHINGTON INS CO  
PUBLIC SERVICE MUTUAL INS CO  
QBE INSURANCE CORPORATION  
QUADRANT INDEMNITY COMPANY  
QUANTA INDEMNITY COMPANY  
QWEST CORPORATION  
RAMPART INSURANCE COMPANY  
RECIPROCAL OF AMERICA INS CO  
REDLAND INSURANCE COMPANY  
REGENT INSURANCE CO

RELIANCE DIRECT INS CO  
RELIANCE NATIONAL INDEMNITY CO  
RELIANCE NATIONAL INSURANCE CO  
REPUBLIC INDEMNITY CO OF AMERICA  
REPUBLIC INDEMNITY CO OF CA  
REPUBLIC WESTERN INSURANCE CO  
RESPONSE WORLDWIDE INSURANCE  
COMPANY  
ROCHDALE INS CO  
ROCKWOOD INSURANCE CO  
ROSAUERS SUPERMARKETS INC  
ROYAL INDEMNITY COMPANY  
RYDER SYSTEMS INC  
SAFECO INSURANCE CO OF ILLINOIS  
SAFECO INSURANCE COMPANY OF  
AMERICA  
SAFETY NATIONAL CASUALTY CORP  
SAFEWAY INC  
SAFEWAY STORES INC  
SAGAMORE INSURANCE COMPANY  
SCIF HORSERACING  
SCOR REINSURANCE COMPANY  
SEABOARD SURETY COMPANY  
SEABRIGHT INSURANCE COMPANY  
SEATON INSURANCE CO  
SECURITY INS CO OF HARTFORD  
SECURITY NATIONAL INS CO  
SELECT INSURANCE CO  
SENTINEL INSURANCE COMPANY LTD  
SENTRY INS MUTUAL CO  
SENTRY SELECT INS CO  
SHELBY CASUALTY INS CO  
SHELL PIPELINE CORP  
SHELL WESTERN E & P  
SIRIUS AMERICAN INS CO  
SISTERS OF CHAR OF PROV OF MT  
SISTERS OF CHARITY OF LEAVENWORTH  
HEALTH SYSTEM  
SKAGGS ALPHA BETA  
SMURFIT STONE CONTAINER  
ENTERPRISES INC  
SOMPO JAPAN INS CO OF AMERICA  
SOUTHERN INSURANCE COMPANY  
SPECIALTY NATIONAL INS CO  
ST JOSEPH HOSPITAL CORP  
ST PATRICK HOSPITAL & HEALTH  
SCIENCES CTR  
ST PAUL FIRE & MARINE INS CO



ST PAUL GUARDIAN INS CO  
ST PAUL MEDICAL LIABILITY INS CO  
ST PAUL MERCURY INS CO  
ST PAUL PROTECTIVE INSURANCE  
COMPANY  
ST THOMAS CHILD & FAMILY CNTR  
STAN WATKINS TRUCKING INC  
STANDARD FIRE INS CO  
STAR INS CO  
STARNET INSURANCE COMPANY  
STATE FARM FIRE & CASUALTY CO  
STATE FARM GENERAL INS CO  
STATE FARM MUTUAL AUTOMOBILE INS  
CO  
STILLWATER MINING CO  
STOLTZE CONNER LUMBER CO  
STONEBRIDGE CASUALTY INSURANCE  
COMPANY  
STONEMAN INSURANCE COMPANY  
STONINGTON INSURANCE COMPANY  
SUPERIOR NATIONAL INS CO  
SWISS REINSURANCE AMERICA CORP  
TARGET CORP  
TECHNOLOGY INS CO INC  
TECK COMINCO AMERICAN INC  
TEXAS EMPLOYERS INDEMNITY CO  
TEXAS GENERAL INDEMNITY CO  
TIG INSURANCE CO  
TNUS INSURANCE COMPANY  
TOKIO MARINE & NICHIDO FIRE  
INSURANCE CO LTD  
TOWN PUMP INC  
TRADERS & GENERAL INS CO  
TRANS PACIFIC INSURANCE COMPANY  
TRANSCONTINENTAL INS CO  
TRANSPORT INSURANCE CO  
TRANSPORTATION INS CO  
TRAVELERS CAS & SURETY CO OF AMER  
TRAVELERS CASUALTY & SURETY CO  
TRAVELERS CASUALTY CO OF CONN  
TRAVELERS CASUALTY INS CO OF  
AMERICA  
TRAVELERS COMMERCIAL CASUALTY  
COMPANY  
TRAVELERS COMMERCIAL INS CO  
TRAVELERS IND CO OF AMERICA  
TRAVELERS INDEMNITY CO  
TRAVELERS INDEMNITY CO OF CT

TRAVELERS PROPERTY & CASUALTY INS  
CO  
TRAVELERS PROPERTY CAS CO OF  
AMERICA  
TRIAD GUARANTY INSURANCE COMPANY  
TRINITY UNIVERSAL INS CO OF KANSAS  
TRINITY UNIVERSAL INSURANCE CO  
TRITON INSURANCE COMPANY  
TRUCK INS EXCHANGE  
TRUMBULL INSURANCE CO  
TWIN CITY FIRE INS CO  
ULICO CASUALTY COMPANY  
UNIGARD INSURANCE CO  
UNINSURED EMPLOYERS' FUND  
UNION INS CO OF PROVIDENCE  
UNION INSURANCE COMPANY  
UNION OIL COMPANY OF CA  
UNION TANK CAR CO  
UNITED COMMUNITY INSURANCE CO  
UNITED PACIFIC INSURANCE CO  
UNITED STATES FIDELITY & GUARANTY  
CO  
UNITED STATES FIRE INS CO  
UNITED STATES LIABILITY INS CO  
UNITED WISCONSIN INS CO  
UNIVERSAL UNDERWRITERS INS CO  
UNIVERSITY OF GREAT FALLS  
US SPECIALTY INS CO  
UTICA MUTUAL INS CO  
VALIANT INSURANCE COMPANY  
VALLEY FORGE INS CO  
VANLINER INSURANCE CO  
VEREX ASSURANCE INC  
VIGILANT INSURANCE CO  
VILLANOVA INSURANCE COMPANY  
VIRGINIA SURETY CO INC  
WARNER INSURANCE COMPANY  
WASHINGTON CASUALTY COMPANY  
WATKINS & SHEPARD TRUCKING INC  
WAUSAU BUSINESS INS CO  
WAUSAU UNDERWRITERS INS CO  
WAVERLEY MONTANA INC  
WESCO INSURANCE COMPANY  
WEST AMERICAN INSURANCE COMPANY  
WESTCHESTER FIRE INSURANCE CO  
WESTERN AGRICULTURAL INS CO  
WESTERN DIVERSIFIED CASUALTY INS  
WESTERN EMPLOYERS INS CO

WESTERN ENERGY CO  
WESTERN FRUIT EXPRESS CO  
WESTERN GUARANTY ASSOCIATION  
WESTPORT INS CORP  
WILLIAMSBURG NATIONAL INS CO  
XL INS CO OF NEW YORK INC  
XL INSURANCE AMERICA INC  
XL REINSURANCE AMERICA  
XL SPECIALTY INS COMPANY  
YORK INSURANCE COMPANY  
YOSEMITE INSURANCE COMPANY  
ZENITH INS CO  
ZURICH AMERICAN INS CO  
ZURICH AMERICAN INS CO OF ILLINOIS

¶1 On April 10, 2003, the Montana Supreme Court held that it was a violation of the equal protection clauses of the Montana and United States constitutions to allow for apportionment deductions for non-occupational factors in the Occupational Disease Act, but not in the Workers' Compensation Act and thus the Court struck section 39-72-706, MCA, as unconstitutional. *Schmill v. Liberty Northwest Ins. Corp.*, 2003 MT 80, 315 Mont. 51, 67 P.3d 290.

¶2 Following that decision, the petitioner's attorney filed a notice of attorney fee lien, a copy of which is attached. In that lien notice, the petitioner's attorney claims an attorney fee lien upon the common fund of occupational disease cases in which an apportionment was taken prior to and including June 22, 2001, for dates of occupational disease occurring on or after July 1, 1987. The claimed lien extends to all Montana insurers and self-insurers. The lien is for 25% of the additional benefits due.

¶3 Until further order of this Court, each insurer and self-insurer named in this amended summons is authorized to withhold 25% of additional benefits paid on account of the *Schmill* decision to claimants who were injured on or after July 1, 1987, and had benefits reduced as a result of an apportionment taken prior to and including June 22, 2001.

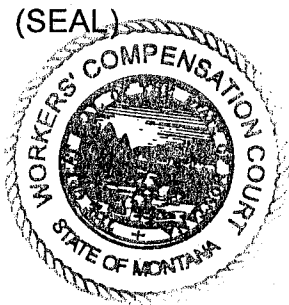
¶4 Further, each of you is made a respondent to the petitioner's common fund claim and summoned to answer the petitioner's request for enforcement of her attorney's lien. Your written answer must be received at the Workers' Compensation Court at P.O. Box 537, Helena, Montana 59624-0537, or delivered to its offices at 1625 11<sup>th</sup> Avenue, Helena, Montana, on or before January 23, 2006. A copy of your answer must also be served on the petitioner's attorney, Ms. Laurie Wallace at Bothe & Lauridsen, P.C., P.O. Box 2020, Columbia Falls, Montana 59912.

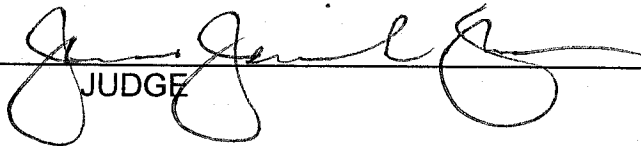
¶5 Accompanying this amended summons is a form affidavit. If any insurer, self-insurer, or guaranty association believes it should be dismissed from this matter, you are directed to complete the affidavit and return it to the Workers' Compensation Court. If none of the enumerated reasons apply, you must prepare a separate affidavit for the Court's review.

¶6 The failure of any insurer, self-insurer, or guaranty association to timely appear will constitute a waiver of that entity's right to participate in the proceedings, including the briefing process. Since the Supreme Court in *Schmill v. Liberty Northwest Ins. Corp.*, 2005 MT 144, ¶25, 327 Mont. 293, 114 P.3d 204, found a common fund to have been created in this case, the future proceedings will be to enforce common fund entitlements and the petitioner's attorney fee lien. Resolution of these legal issues, and any attendant issues, will govern this case and apply to each of you.

¶7 Copies of minutes of conferences and hearings, as well as of briefs, motions, orders, and other documents filed in this case, will be posted in the "common fund" section on this Court's Website, [www.wcc.dli.mt.gov](http://www.wcc.dli.mt.gov).

DATED in Helena, Montana, this 7<sup>th</sup> day of December, 2005.



  
\_\_\_\_\_  
JUDGE

Attachments: Notice of Attorney Fee Lien  
Affidavit

LAURIE WALLACE  
Bothe & Lauridsen, P.C.  
P.O. Box 2020  
Columbia Falls, MT 59912  
Telephone: (406) 892-2193

"Attorneys for Petitioner"

IN THE WORKERS COMPENSATION COURT OF THE STATE OF MONTANA  
IN AND FOR THE AREA OF KALISPELL  
BEFORE THE WORKERS' COMPENSATION JUDGE

CASSANDRA SCHMILL,     )  
                                  ) WCC NO. 2001-0300  
    Petitioner,            )  
                                  )  
    vs.                     ) NOTICE OF ATTORNEY FEE LIEN  
                                  )  
LIBERTY NW INS. CORP.,   )  
                                  )  
    Respondent.            )  
\_\_\_\_\_ )

COMES NOW the undersigned, and herewith gives notice to Liberty NW Ins. Corp. and its counsel of record, and all other insurers who have apportioned occupational disease benefits, of the undersigned's attorney fee lien upon the common fund created and to be created in the above-entitled matter. The undersigned's attorney fee lien is being asserted against all occupational disease cases in which an apportionment was taken prior to and including June 22, 2001, for dates of occupational disease occurring on or after July 1, 1987. The lien is asserted against all insurers providing workers' compensation benefits to Montana workers for occupational diseases occurring from July 1, 1987 through June 22, 2001. The amount of the lien is 25% of all benefits not paid pursuant to an apportionment calculation and subsequent reduction.

DATED this 11 day of July, 2003.

ATTORNEYS FOR PETITIONER

BOTHE & LAURIDSEN, P.C.  
P.O. Box 2020  
Columbia Falls, MT 59912  
Telephone: (406) 892-2193

By: Laurie Wallace  
LAURIE WALLACE

Certificate of Mailing

I, Robin Stephens, do hereby certify that on the 11 day of July, 2003, I served a true and accurate copy of the NOTICE OF ATTORNEY FEE LIEN by U.S. mail, first class, postage prepaid to the following:

Mr. Larry Jones  
Liberty NW Ins. Corp.  
700 SW Higgins, Ste. 108  
Missoula, Montana 59803-1489

Robin Stephens  
Robin Stephens