

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL

Petitioner

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

MONTANA STATE FUND

Intervenor.

FILED

JAN 24 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

AFFIDAVIT

STATE OF Connecticut)
: ss.
County of Fairfield)

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

¶2 I, Roger Cyr (NAME), am the a Vice President (POSITION) of Converium Insurance (North America) Inc. (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as Vice President (POSITION) of Converium Insurance (North America) Inc. (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of Converium Insurance (North America) Inc. (NAME OF INSURER OR SELF-INSURER) and to bind Converium Insurance (North America) Inc. (NAME OF INSURER OR SELF-INSURER) by these statements.

¶4 After a review of our records, I swear under oath that Converium Insurance (North America) Inc. (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. 187

- Converium Insurance
(North America) Inc. (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- Converium Insurance
(North America) Inc. (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- Converium Insurance
(North America) Inc. (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 Converium Insurance North America Inc. (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 11 day of January, 2006.

[Signature]

(Name)

Vice President

(Title)

Signed and sworn to before me this 11th day of January, 2006.

Kristina Dest

Notary Public for the State of Connecticut
Residing at: Stamford
My Commission Expires: 8/31/2008

(SEAL.)

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL

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Petitioner

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vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

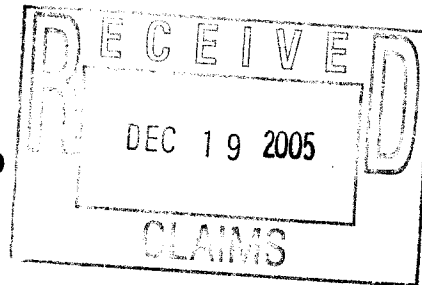
OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

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
STONEWALL 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.

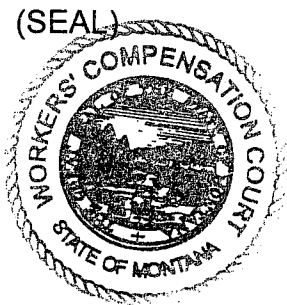
¶4 Further, each of you is made a respondent to the petitioner's common fund claim and summoned to answer the petitioner's request for enforcement of her attorney's lien. Your written answer must be received at the Workers' Compensation Court at P.O. Box 537, Helena, Montana 59624-0537, or delivered to its offices at 1625 11th 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.

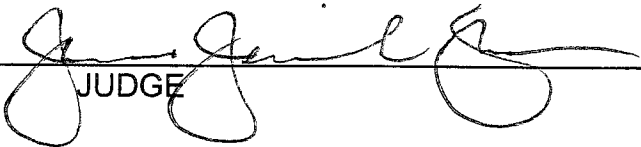
¶5 Accompanying this amended summons is a form affidavit. If any insurer, self-insurer, or guaranty association believes it should be dismissed from this matter, you are directed to complete the affidavit and return it to the Workers' Compensation Court. If none of the enumerated reasons apply, you must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

DATED in Helena, Montana, this 7th 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