

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

FILED

CASSANDRA SCHMILL

JAN 30 2006

Petitioner

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

MONTANTA STATE FUND

Intervenor.

AFFIDAVIT

STATE OF IOWA)
 : ss.
County of Polk)

¶1 I, **JOHN F. THELEN**, being first duly sworn upon oath, depose and say:

¶2 I, **JOHN F. THELEN**, was the **SECRETARY** of **AMERICAN WEST INSURANCE COMPANY**.

¶3 In my capacity as **SECRETARY** of Tri-State Insurance Company of Minnesota, I am authorized to make the statements set forth in this affidavit on behalf of **AMERICAN WEST INSURANCE COMPANY** via a Purchase Agreement between American West Insurance Company and Tri-State Insurance Company whereby Tri-State Insurance Company of Minnesota assumed all the business of American West Insurance Company and is the successor-in-interest to American West Insurance Company for all insurance policies issued in the State of Montana prior to the sale of American West.

¶4 After a review of our records, I swear under oath that **AMERICAN WEST INSURANCE COMPANY** should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

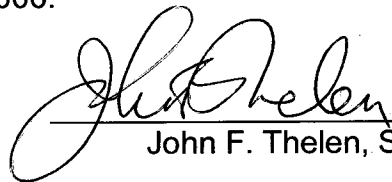
DOCKET ITEM NO 204

- AMERICAN WEST INSURANCE COMPANY** has never written workers' compensation insurance in the state of Montana;
- AMERICAN WEST INSURANCE COMPANY** does not have any Montana claims;
- AMERICAN WEST INSURANCE COMPANY** has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- AMERICAN WEST INSURANCE COMPANY** 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 **AMERICAN WEST INSURANCE COMPANY**. 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.

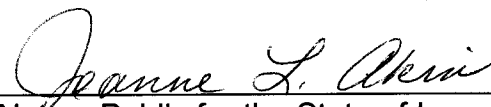
¶6 I declare under penalty of perjury that the foregoing is correct.

DATED this 26 day of January, 2006.



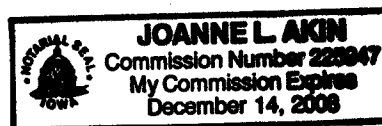
 John F. Thelen, Secretary

Signed and sworn to before me this 26th day of January, 2006.



 Notary Public for the State of Iowa
 Residing at: Iowa
 My Commission Expires: _____

(SEAL)
 Affidavit Page 2



LAW OFFICES OF
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January 27 2006

Ms. Patricia J. Kessner
Clerk of Court
Workers' Compensation Court
1625 11th Avenue
P.O. Box 537
Helena, Montana 59624

Re: Cassandra Schmill v. Liberty Northwest Insurance Corporation and
Montana State Fund
WCC No. 2001-0300

Dear Ms. Kessner:

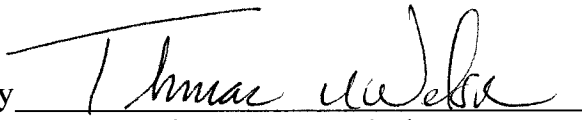
Enclosed for filing in the above-captioned matter are the original and one copy of Affidavit of John F. Thelen on behalf of American West Insurance Company.

Please acknowledge receipt and filing date of the same by returning a conformed copy in the stamped, pre-addressed envelope enclosed for your convenience.

Thank you.

Very truly yours,

POORE, ROTH & ROBINSON, P.C.

By 
Thomas M. Welsch

TMW:ct
Enclosures
cc: Laurie Wallace, Esq.