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FILED

FEB - 3 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

Attorneys for, Lumberman's Underwriting Alliance,
 ASARCO, Inc., Benefis Healthcare, Continental Casualty Co.,
 Golden Sunlight Mines, Northwest Healthcare, Corp.,
 Northwestern Energy, LLC, F.H. Stoltze Land &
 Lumber Co., Plum Creek Timber Co. Inc, Rosauers,
 and Safeway.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

<p>CASSANDRA SCHMILL, Petitioner, v. LIBERTY NORTHWEST INSURANCE CORPORATION, Respondent/Insurer, and MONTANA STATE FUND, Intervenor.</p>	<p>WCC NO. 2001-0300 REPLY IN SUPPORT OF MOTION FOR EXTENSION</p>
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COMES NOW Bryce R. Floch, on behalf of the insurers/ self insureds identified above, and hereby files the reply in support of the motion for an extension of time. The motion for extension of time should be granted as the insurers and self insureds have

reasonably demonstrated due diligence in their attempts to comply with the amended summons.

Petitioner's counsel concedes a 60 day extension would be reasonable if the insurers demonstrate due diligence in complying with the amended summons. Specifically, the Petitioner's response states:

Petitioner would ask that the Insurers be required to provide the Court with information outlining the due diligence taken to respond to the Amended Summons and why additional time is needed in order to do so.

(Petitioner's January 26, 2006 Response, Docket #202)

Attached hereto, and hereby incorporated by reference, are the affidavits of Sandy Mayernik and Rick Davenport. Both of these affidavits demonstrate that: 1) the insurers cannot reasonably respond to the amend summons by February 22, 2006; 2) the insurers have been diligently attempting to identify files which were effected by the *Schmill* decisions; 3) the insurers believe it is more appropriate to take them time and perform a thorough and complete search to identify files, rather than an expedited and cursory review; and 4) the insurers are attempting to identify all the claims files effected by all of the common fund cases (*ie. Raush-Ruhd*) during their physical file reviews, rather than duplicating the effort for each common fund case.

The Petitioner's contention it will be prejudiced by allowing these eleven (11) relatively small insurers and self-insureds an additionally 30 days to respond to the Amended Summons is overreaching at best, and unreasonable at worst. These Intervenor's have met the due diligence standard enounced by the Petitioner in her response and this Court should grant the above referenced insurers and self-insureds until March 23, 2006 to respond to the Amended Summons.

DATED this 3rd day of February, 2006.

HAMMER, HEWITT & JACOBS, PLLC



Bryce R. Floch
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Kalispell, MT 59904-0310

REPLY IN SUPPORT OF MOTION FOR EXTENSION

Page 2

CERTIFICATE OF SERVICE

This is to certify that I, David M. Sandler sent on this 3rd day of Jnauary, 2006, the forgoing attached **REPLY IN SUPPORT OF MOTION FOR EXTENSION** was duly serviced upon the following attorneys of record, by depositing a true copy thereof in the United States mail, postage paid, addressed as:

Laurie Wallace
PO Box 2020
Columbia Falls, MT 59912



Bryce R. Floch

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Attorneys for, Lumberman's Underwriting Alliance,
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 Golden Sunlight Mines, Northwest Healthcare, Corp.,
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 Lumber Co., Plum Creek Timber Co. Inc, Rosauers,
 and Safeway.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

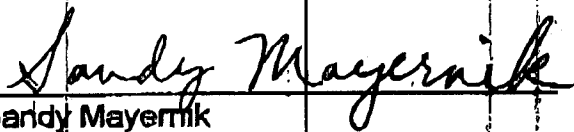
<p>CASSANDRA SCHMILL, Petitioner, v. LIBERTY NORTHWEST INSURANCE CORPORATION, Respondent/Insurer, and MONTANA STATE FUND, Intervenor.</p>	<p>WCC NO. 2001-0300 AFFIDAVIT OF SANDY MAYERNIK</p>
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STATE OF MONTANA)
 : ss
 County of Cascade)

I, Sandy Mayernik, being first duly sworn upon oath, depose and say:

1. I am an adjuster for Crawford & Company. Crawford & Company is the third party administrator for Continental Casualty Company.
2. Continental Casualty Company has identified 181 files which will need to be physically reviewed in order to determine if they are effected by the *Schnill* decisions.
3. We cannot reasonably review the files and respond to the December 7, 2005 Amended Summons by February 22, 2006.
4. We have been diligently attempting to comply with the December 7, 2005 Amended Summons, but given the number of files identified, and the fact some of them are stored off site, we cannot perform a thorough and complete search by February 22, 2006.
5. Rather than physically reviewing claims files for each different common fund case on more than one occasion, we believe it is more efficient to review the claims files once to determine if it is effected by any of the common fund cases.

DATED this 3rd day of February, 2006.


Sandy Mayernik

AFFIDAVIT OF SANDY MAYERNIK
Page 2

** TOTAL PAGE 03 **

STATE OF MONTANA)

: ss.

County of Cascade)

On this 3rd day of February, 2006, before me, a Notary Public for the State of Montana, personally appeared Sandy Mayernik, and acknowledged to me that she executed the foregoing Affidavit and stated under oath that the matters and things therein set forth are true of her own knowledge.

Signed and sworn to before me on the date first-above written.

Erio K. Hock
Printed Name: Erio K. Hock
Notary Public of the State of Montana
Residing at Cascade County
My Commission Expires: 2/1/07.

AFFIDAVIT OF SANDY MAYERNIK

Page 3

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

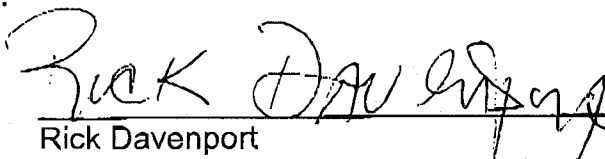
<p>CASSANDRA SCHMILL, Petitioner, v. LIBERTY NORTHWEST INSURANCE CORPORATION, Respondent/Insurer, and MONTANA STATE FUND, Intervenor.</p>	<p>WCC NO. 2001-0300 AFFIDAVIT OF RICK DAVENPORT</p>
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STATE OF MONTANA)
 : ss
 County of ~~Cascade~~)
 Flourhead

I, Rick Davenport, being first duly sworn upon oath, depose and say:

1. I am the executive vice-president for Putman & Associates. Putman & Associates is the third-party administrator for ASARCO, Inc., Benefis Healthcare, Golden Sunlight Mines, Northwest Healthcare, Corp., Northwestern Energy, LLC, F.H. Stoltze Land & Lumber Company, Plum Creek Timber Co. Inc, Rosauers and Safeway.
2. These insurers and self-insureds, with my assistance, are reviewing claims files which may have been effected by the *Schmill* decisions.
3. We cannot reasonably review the files and respond to the December 7, 2005 Amended Summons by February 22, 2006.
4. We have been diligently attempting to comply with the December 7, 2005 Amended Summons, but given the number of potential claims files, and the fact some of them are stored off site, we cannot perform a thorough and complete search by February 22, 2006.
5. Rather than physically reviewing claims files for each different common fund case on more than one occasion, we believe it is more efficient to review the claims files once to determine if the particular file was affected by any of the common fund cases.

DATED this 3rd day of February, 2006.


Rick Davenport

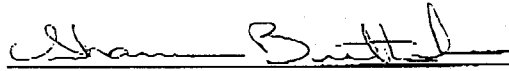
STATE OF MONTANA)

: ss.

County of ~~Cascade~~ ^{Flathead})

On this 3rd day of February, 2006, before me, a Notary Public for the State of Montana, personally appeared Rick Davenport, and acknowledged to me that he executed the foregoing Affidavit and stated under oath that the matters and things therein set forth are true of his own knowledge.

Signed and sworn to before me on the date first-above written.



Printed Name: Steven Bitterman
Notary Public of the State of Montana
Residing at Kalispell, MT
My Commission Expires: 11/23/2008

HAMMER, HEWITT & JACOBS, PLLC

TODD A. HAMMER, ATTORNEY
LINDA HEWITT CONNERS, ATTORNEY
ANGELA K. JACOBS, ATTORNEY
BRYCE R. FLOCH, ATTORNEY

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POOKIE BROWN, PARALEGAL
PAM WARBURTON, PARALEGAL
JARA STANFORD, PARALEGAL

Fax

To: Pat	From: Jara
Fax: (406) 444-7798	Pages: 9
Re: Reply in Support of Motion for Extension	Date: February 3, 2006

Urgent For Review Please Comment Please Reply

I am sending the original in the mail today.

Jara Stanford

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