

Robert F. James
Mary K. Jaraczski
UGRIN, ALEXANDER, ZADICK & HIGGINS, P.C.
#2 Railroad Square, Suite B
P.O. Box 1746
Great Falls, MT 59403
Telephone: (406) 771-0007
Facsimile: (406) 452-9360

Attorneys for Fairmont Specialty Insurance Company

FILED

FEB - 6 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,)	
)	
Petitioner,)	WCC NO. 2001-0300
)	
- vs -)	
)	
LIBERTY NORTHWEST INSURANCE)	
CORPORATION,)	MOTION TO DISMISS FAIRMONT
)	SPECIALTY INSURANCE
Respondent/Insurer,)	COMPANY
)	
and)	
)	
MONTANA STATE FUND,)	
)	
Intervenor.)	
)	

Respondent/Insurer Fairmont Specialty Insurance Company files this Motion to Dismiss in response to the Summons which issued on December 7, 2005. Fairmont Specialty Insurance Company requests dismissal on the grounds stated in the Affidavit of Kathy San Felipe. Ms. San Felipe's Affidavit is filed herewith in support of the motion.

Motion to Dismiss Fairmont Specialty Insurance Company

DOCKET ITEM NO. 214

In her Affidavit, Ms. San Felipe swears that she has reviewed the company's records and that Fairmont Specialty Insurance Company has no claimants who meet the Court's criteria in this matter as set forth in the Summons.

For the reasons stated, Fairmont Specialty Insurance Company respectfully requests the Court order that it be dismissed from this case.

DATED this 3rd day of February, 2006.

UGRIN, ALEXANDER, ZADICK & HIGGINS, P.C.

By: Mary K. Jaraczski

Mary K. Jaraczski
#2 Railroad Square, Suite B
P.O. Box 1746
Great Falls, Montana 59403
Attorneys for Fairmont Specialty Insurance
Company

CERTIFICATE OF MAILING

I hereby certify that the foregoing was duly served upon the respective attorneys for each of the parties entitled to service by depositing a copy in the United States mails at Great Falls, Montana, enclosed in a sealed envelope with first class postage prepaid thereon and addressed as follows:

Laurie Wallace
Bothe & Lauridsen, P.C.
P.O. Box 2020
Columbia Falls, Montana 59912

DATED this 3 day of February, 2006.



UGRIN, ZADICK, ALEXANDER & HIGGINS, P.C.

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,)	
)	
Petitioner,)	WCC NO. 2001-0300
)	
-vs-)	
)	
LIBERTY NORTHWEST INSURANCE)	
CORPORATION,)	AFFIDAVIT OF KATHY SAN FELIPE
)	
Respondent/Insurer,)	
)	
and)	
)	
MONTANA STATE FUND,)	
)	
Intervenor.)	
)	

State of Texas)
 : ss
Harris County)

- ¶ 1. I, Kathy San Felipe, being first duly sworn upon oath, depose and say:
- ¶ 2. I, Kathy San Felipe, am the executive liability specialist in the area of large claims for Fairmont Specialty Insurance Company.

¶ 3. In my capacity as executive liability specialist in the area of large claims for Fairmont Specialty Insurance Company, I am authorized to make the following statements set forth in this Affidavit on behalf of Fairmont Specialty Insurance Company and to bind the company to the statements herein.

¶ 4. After a review of our records, I swear under oath that Fairmont Specialty Insurance Company should be dismissed from the above-entitled action for the following reasons:

Fairmont Specialty Insurance Company has no claimants who meet the Court's criteria in this matter as set forth in the Summons.

¶ 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 counsel for Petitioner may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statements made by me on behalf of Fairmont Specialty Insurance Company. After such 90 days, if no objection is lodged by counsel for Petitioner, 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 2nd day of February, 2006.

Kathy San Felipe
Name

Executive Liability Specialist
Title

SIGNED AND SWORN TO before me this 2nd day of February, 2006.

Kristina Cegbe
Printed Name: Kristina Cegbe
Notary Public for the State of Texas
Residing in Houston, Texas
My commission expires: 9/10/08

(SEAL)



UGRIN, ALEXANDER, ZADICK & HIGGINS, P.C.

JOHN D. ALEXANDER
NANCY P. CORY
MARK F. HIGGINS
ROBERT F. JAMES
Mary K. Jaraczeski
CATHY J. LEWIS
MARK D. MEYER
NEIL E. UGRIN
ROGER T. WITT
GARY M. ZADICK

ATTORNEYS AT LAW
2 RAILROAD SQUARE, SUITE B
P.O. BOX 1746
GREAT FALLS, MONTANA 59403-1746

TELEPHONE
(406)771-0007

FAX
(406)452-9360

E-MAIL
uazh@uazh.com

February 3, 2006

Our File: RA 26-02

Montana Workers Compensation Court
Jackie Bockman, Clerk of Court
P.O. Box 537
1625 11th Avenue
Helena, MT 59624-0537

Re: WCC No. 2001-0300
Schmill v. Liberty Northwest Ins. Co.

Dear Ms. Bockman:

Enclosed for filing please find the Motion to Dismiss Fairmont Specialty Insurance Company. Please conform the copy and return to me in the self-addressed, stamped envelope provided. Thank you.

Sincerely yours,

Ugrin, Alexander, Zadick & Higgins, P.C.

By: 
Mary K. Jaraczeski

cc: K. San Felipe (w/enclose)