

WORKERS COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL)
)
vs.)
)
LIBERTY NORTHWEST INS. CORP.)
and MONTANA STATE FUND)

WCC No. 2001-0300

FILED

FEB 22 2006

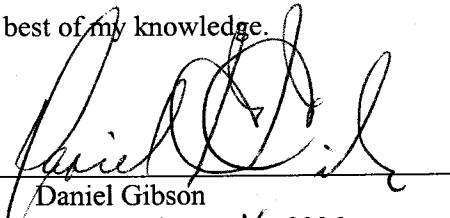
OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

**AFFIDAVIT OF DANIEL GIBSON FOR AND ON BEHALF OF
FORT WAYNE HEALTH AND CASUALTY INSURANCE COMPANY**


STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

Daniel Gibson, being first duly sworn, on oath deposes and says:

1. I am a Vice President and Controller of Fort Wayne Health and Casualty Insurance Company ("FWH&C"). As such, I have acquired knowledge concerning the payment of workers compensation claims under policies issued by FWH&C.
2. Employees of FWH&C have conducted a diligent search of FWH&C records and based upon this search I have confirmed that FWH&C did not write any workers' compensation insurance in the state of Montana.
3. Accordingly, I swear under oath that FWH&C should be dismissed from the above-entitled action for any or all of the following reasons:
 - (a) FWH&C has not written any workers' compensation insurance in the state of Montana;
 - (b) FWH&C does not have any Montana workers' compensation insurance claims; and
 - (c) FWH&C has no claimants meeting the Court's criteria in this matter as set forth in the summons.
4. 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 Petitioners' counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of FWH&C. After such 90 days, if no objection is lodged by the Petitioners' counsel, the Court will dismiss the insurer/self-insured from this action based on the sworn statements made by me in this affidavit
5. The above is true and correct to the best of my knowledge.


Daniel Gibson
Dated: February 16, 2006

So subscribed and sworn to before me this 16th day of February, 2006


Notary Public for the State of New York
My Commission Expires: 10-7-06

LISA M. TAMBASCIO
Notary Public, State of New York
No. 01-TA5066946
Qualified in Westchester County
Commission Expires Oct. 7, 2006
DOCKET ITEM NO. 232

Swiss Re



Julie Pollack
Associate General Counsel

**VIA CERTIFIED MAIL – RETURN RECEIPT
REQUESTED**

Clerk of Court
Workers Compensation Court of the State of Montana
P.O. Box 537
Helena, MT 59624-0537

Swiss Reinsurance America Corporation
175 King St.
Armonk, NY 10504
USA
Direct line (914) 828-8633
Direct fax (914) 828-7633
Julie_Pollack@swissre.com

Schmill v. Montana State Fund, WCC NO. 2001-0300

February 17, 2005

Dear Sir of Madam:

I write on behalf of Swiss Reinsurance America Corporation's corporate affiliate, Fort Wayne Health & Casualty Insurance Company, which is in receipt of the Summons and Notice of Attorney Fee Lien in the above referenced matter.

Please be advised that Fort Wayne Health & Casualty Insurance Company has never written workers' compensation insurance in the State of Montana. In light of this and in reliance upon the attached affidavit, we request the dismissal of Fort Wayne Health & Casualty from the above-captioned matter. It is our understanding that this can be accomplished without the necessity of a formal pleading. If the Court disagrees or has any questions, please contact the undersigned.

Sincerely,



Julie Pollack

Encl.

cc: The Honorable James Jeremiah Shea
Workers Compensation Court of the
State of Montana
P.O. Box 537
Helena, MT 59624-0537
VIA U.S. MAIL

Laurie Wallace, Esq.
Bothe & Lauridsen, P.C.
P.O. Box 2020
Columbia Falls, MT 59912
*VIA CERTIFIED MAIL – RETURN
RECEIPT REQUESTED*