

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

NOV 20 2006

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

AFFIDAVIT

STATE OF Florida)
County of Duval) : ss.

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

¶2 I, Robert Wortelbaer (NAME), am the General Counsel & V.P. (POSITION) of First Professionals Ins. Co. (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as General Counsel & V.P. (POSITION) of First Professionals Ins. Co. (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of First Professionals Ins. Co. (NAME OF INSURER OR SELF-INSURER) and to bind First Professionals Ins. Co. (NAME OF INSURER OR SELF-INSURER) by these statements.

¶4 After a review of our records, I swear under oath that First Professionals Ins. Co. (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):

REC'D DEC 13 2005

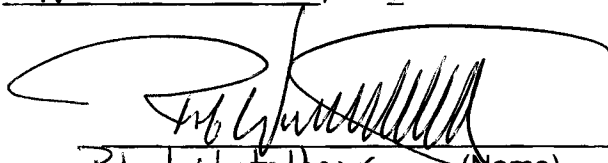
DOCKET ITEM NO. 333

- First Professionals Ins. Co. (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- _____ (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- _____ (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 First Professionals Ins. Co. (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 13th day of November, 2006.



 Robert Wortelbaer (Name)
 General Counsel & V.P.

 (Title)

Signed and sworn to before me this 13th day of November, 2006.

B. HIGGINBOTHAM
 Notary Public, State of Florida
 My comm. exp. Nov. 17, 2007
 Comm. No. DD 268190
 (SEAL)

B. Higginbotham
 Notary Public for the State of Florida
 Residing at: Duckanville, Ala
 My Commission Expires: 11/17/2007

REC'D DEC 13 2006

Bothe & Lauridsen, P.C.
Attorneys at Law

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P.O. BOX 2020
COLUMBIA FALLS, MT 59912

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WEBSITE: www.bandllaw.com

JOHN H. BOTHE

(1951-1996)

November 13, 2006

VIA FACSIMILE - 904-358-6424

Mr. Robert Wortelboer, Jr.
FPIC
P.O. Box 44033
Jacksonville, FL 32231-4033

RE: First Professional Ins. Co.
SCHMILL v. LIBERTY NW INS. CORP., et al.
WCC No. 2001-0300

Dear Mr. Wortelboer:

Pursuant to our phone conversation, attached please find a copy of the Amended Summons with the Affidavit in regard to the above-referenced matter. As we discussed, you need to fill in the Affidavit and forward it onto the Montana Workers' Compensation Court at the following address, with a copy to this office:

Ms. Clara Wilson
Clerk of Workers'
Compensation Court
P.O. Box 537
Helena, MT 59624-0537

Should you have any questions concerning this matter, please contact me directly.

Sincerely,


Robin Stephens, Secretary
BOTHE & LAURIDSEN, P.C.

Enc.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL

FILED

Petitioner

DEC - 7 2005

vs.

**OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA**

LIBERTY NORTHWEST INSURANCE CORPORATION

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

RECEIVED DEC 27 2005

REC'D DEC 13 2005

DOCKET ITEM NO. 79

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

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COLUMBUS HOSPITAL CORP	EMPLOYERS FIRST INSURANCE
COMBINED BENEFITS INS CO	COMPANY
COMMERCE & INDUSTRY INS CO	EMPLOYERS INS COMPANY OF WAUSAU
COMMERCIAL CASUALTY INS CO	EMPLOYERS MUTUAL CASUALTY CO
COMMERCIAL COMPENSATION	EMPLOYERS REINSURANCE CORP
CASUALTY INS CO	ENTECH INC
COMMERCIAL GUARANTY CASUALTY	ERNST HOME CENTERS
INSURANCE COMPANY	EULER AMERICAN CREDIT INDEMNITY
COMMERCIAL INS CO OF NEWARK NJ	COMPANY
COMMERCIAL LOAN INS CORP	EVANSTON INSURANCE COMPANY
CONAGRA FOODS INC	EVEREST NATIONAL INS CO
CONNIE LEE INSURANCE CO	EVERGREEN NATIONAL INDEMNITY
CONSOLIDATED FREIGHTWAYS CORP	EXECUTIVE RISK INDEMNITY INC
CONTINENTAL BAKING CO	EXPLORER INS COMPANY
CONTINENTAL CASUALTY CO	F H STOLTZE LAND & LUMBER CO
CONTINENTAL INS CO	FACTORY MUTUAL INS CO
CONTINENTAL NATIONAL INDEMNITY	FAIRFIELD INS CO
CONTINENTAL REINSURANCE	FAIRMONT INSURANCE CO
CORPORATION	FAIRMONT PREMIER INSURANCE
CONTINENTAL WESTERN INS CO	COMPANY
CONVERIUM INSURANCE (NORTH	FAIRMONT SPECIALTY INSURANCE
AMERICA) INC	COMPANY
CONVERIUM REINSURANCE (NORTH	FARMERS INS EXCHANGE
AMERICA) INC	FARMINGTON CASUALTY CO
CORE INSURANCE COMPANY	FARMLAND MUTUAL INS CO
COREGIS INS CO	FEDERAL EXPRESS CORP
COSTCO WHOLESALE CORP	FEDERAL INS CO
COUNTRY CASUALTY INS CO	FEDERATED MUTUAL INSURANCE CO
COUNTRY MUTUAL INS CO	FEDERATED SERVICE INSURANCE CO
COUNTRY PREFERRED INS CO	FIDELITY & CASUALTY CO OF NEW YORK
CREDIT GENERAL INSURANCE CO	FIDELITY & DEPOSIT CO OF MARYLAND
CUMIS INSURANCE SOCIETY INC	FIDELITY & GUARANTY INS CO
CYPRUS MINES CORPORATION	FIDELITY & GUARANTY INS
DAIMLER CHRYSLER INSURANCE	UNDERWRITERS
COMPANY	FIREMANS FUND INS CO
DAIRYLAND INSURANCE COMPANY	FIREMANS FUND INS CO OF OHIO
DAKOTA FIRE INSURANCE COMPANY	FIREMANS FUND INS CO OF WISCONSIN
DEPOSITORS INSURANCE COMPANY	FIREMENS INS CO OF NEWARK NJ
DISCOVER PROPERTY & CASUALTY INS	FIRST FINANCIAL INSURANCE COMPANY
CO	FIRST LIBERTY INSURANCE
ECONOMY FIRE & CASUALTY CO	CORPORATION
ECONOMY PREFERRED INS CO	FIRST NATIONAL INS CO OF AMERICA
ECONOMY PREMIER ASSURANCE CO	FIRST PROFESSIONALS INSURANCE
ELECTRIC INS CO	COMPANY INCORPORATE
EMCASCO INSURANCE COMPANY	FIRST SOUTHERN INSURANCE CO
EMPLOYERS CASUALTY COMPANY IN	FLORISTS MUTUAL INS CO
RECEIVERSHIP	FLYING J INC
EMPLOYERS FIRE INSURANCE CO	

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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

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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

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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

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ST PAUL GUARDIAN INS CO	TRAVELERS PROPERTY & CASUALTY INS CO
ST PAUL MEDICAL LIABILITY INS CO	TRAVELERS PROPERTY CAS CO OF AMERICA
ST PAUL MERCURY INS CO	TRIAD GUARANTY INSURANCE COMPANY
ST PAUL PROTECTIVE INSURANCE COMPANY	TRINITY UNIVERSAL INS CO OF KANSAS
ST THOMAS CHILD & FAMILY CNTR	TRINITY UNIVERSAL INSURANCE CO
STAN WATKINS TRUCKING INC	TRITON INSURANCE COMPANY
STANDARD FIRE INS CO	TRUCK INS EXCHANGE
STAR INS CO	TRUMBULL INSURANCE CO
STARNET INSURANCE COMPANY	TWIN CITY FIRE INS CO
STATE FARM FIRE & CASUALTY CO	ULICO CASUALTY COMPANY
STATE FARM GENERAL INS CO	UNIGARD INSURANCE CO
STATE FARM MUTUAL AUTOMOBILE INS CO	UNINSURED EMPLOYERS' FUND
STILLWATER MINING CO	UNION INS CO OF PROVIDENCE
STOLTZE CONNER LUMBER CO	UNION INSURANCE COMPANY
STONEBRIDGE CASUALTY INSURANCE COMPANY	UNION OIL COMPANY OF CA
STONEWALL INSURANCE COMPANY	UNION TANK CAR CO
STONINGTON INSURANCE COMPANY	UNITED COMMUNITY INSURANCE CO
SUPERIOR NATIONAL INS CO	UNITED PACIFIC INSURANCE CO
SWISS REINSURANCE AMERICA CORP	UNITED STATES FIDELITY & GUARANTY CO
TARGET CORP	UNITED STATES FIRE INS CO
TECHNOLOGY INS CO INC	UNITED STATES LIABILITY INS CO
TECK COMINCO AMERICAN INC	UNITED WISCONSIN INS CO
TEXAS EMPLOYERS INDEMNITY CO	UNIVERSAL UNDERWRITERS INS CO
TEXAS GENERAL INDEMNITY CO	UNIVERSITY OF GREAT FALLS
TIG INSURANCE CO	US SPECIALTY INS CO
TNUS INSURANCE COMPANY	UTICA MUTUAL INS CO
TOKIO MARINE & NICHIDO FIRE INSURANCE CO LTD	VALIANT INSURANCE COMPANY
TOWN PUMP INC	VALLEY FORGE INS CO
TRADERS & GENERAL INS CO	VANLINER INSURANCE CO
TRANS PACIFIC INSURANCE COMPANY	VEREX ASSURANCE INC
TRANSCONTINENTAL INS CO	VIGILANT INSURANCE CO
TRANSPORT INSURANCE CO	VILLANOVA INSURANCE COMPANY
TRANSPORTATION INS CO	VIRGINIA SURETY CO INC
TRAVELERS CAS & SURETY CO OF AMER	WARNER INSURANCE COMPANY
TRAVELERS CASUALTY & SURETY CO	WASHINGTON CASUALTY COMPANY
TRAVELERS CASUALTY CO OF CONN	WATKINS & SHEPARD TRUCKING INC
TRAVELERS CASUALTY INS CO OF AMERICA	WAUSAU BUSINESS INS CO
TRAVELERS COMMERCIAL CASUALTY COMPANY	WAUSAU UNDERWRITERS INS CO
TRAVELERS COMMERCIAL INS CO	WAVERLEY MONTANA INC
TRAVELERS IND CO OF AMERICA	WESCO INSURANCE COMPANY
TRAVELERS INDEMNITY CO	WEST AMERICAN INSURANCE COMPANY
TRAVELERS INDEMNITY CO OF CT	WESTCHESTER FIRE INSURANCE CO
	WESTERN AGRICULTURAL INS CO
	WESTERN DIVERSIFIED CASUALTY INS
	WESTERN EMPLOYERS INS CO

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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.

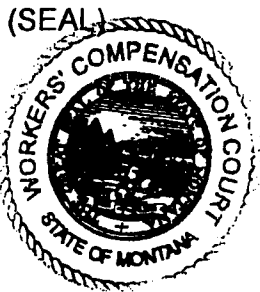
¶4 Further, each of you is made a respondent to the petitioner's common fund claim and summoned to answer the petitioner's request for enforcement of her attorney's lien. Your written answer must be received at the Workers' Compensation Court at P.O. Box 537, Helena, Montana 59624-0537, or delivered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



[Handwritten Signature]

 JUDGE

Attachments: Notice of Attorney Fee Lien
 Affidavit

DEC 13 2005

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.

REC'D DEC 13 2001

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

REC'D DEC 13 2005