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Attorney for METSPool

**FILED**

NOV 30 2006

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

**IN THE WORKER'S COMPENSATION COURT OF THE STATE OF MONTANA**

**WCC No. 2001-0300**

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**CASSANDRA SCHMILL**

**Petitioner**

**vs.**

**LIBERTY NORTHWEST INSURANCE CORPORATION**

**Respondent/Insurer**

**and**

**MONTANA STATE FUND**

**Intervenor.**

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**MOTION TO DISMISS AND SUPPORTING BRIEF**

Montana Electric and Telephone Pool ("METSPool"), through its attorney of record William R. Bieler, hereby requests dismissal from this case for the reasons set forth in the affidavit attached as Exhibit A. As reflected in the affidavit, METSPool has reviewed its claim files and has no claimants meeting the Court's criteria as set forth in the Summons dated December 7, 2005.

Respectfully submitted this 28<sup>th</sup> day of November, 2006.

DOCKET ITEM NO. 340

BURK, LEE & BIELER, PLLC

By   
WILLIAM R. BIELER, Attorney for METSPool

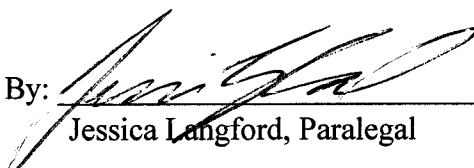
### CERTIFICATE OF SERVICE

The undersigned certifies that on this day a true and correct copy of the foregoing ***Motion to Dismiss and Supporting Brief*** was served upon the person(s) named below by the method indicated:

<input checked="" type="checkbox"/>	U.S. Mail	Laurie Wallace, Esq.
<input type="checkbox"/>	Hand-delivery	BOTHE & LAURIDSEN, PC
<input type="checkbox"/>	Facsimile	PO Box 2020
<input type="checkbox"/>	Certified mail, return receipt	Columbia Falls, MT 59912

DATED this 28<sup>th</sup> day of November, 2006.

Burk, Lee & Bieler, PLLC

By:   
Jessica Langford, Paralegal

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.

AFFIDAVIT

STATE OF Kansas )  
 )  
County of Johnson ) : ss.

¶1 I Susan M. Olander (NAME), being first duly sworn upon oath, depose and say:

¶2 I, Susan M. Olander (NAME), am the General Counsel (POSITION) of Federated Rural Electric Management Corp. (FREMC) (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as General Counsel (POSITION) of FREMC (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of METSPool (NAME OF INSURER OR SELF-INSURER) and to bind METSPool (NAME OF INSURER OR SELF-INSURER) by these statements. claims of the Montana Electric and Telephone Pool (METSPool)

¶4 After a review of our records, I swear under oath that METSPool (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

- \_\_\_\_\_ (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;
- METSPool (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 METSPool (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 21st day of November, 2006.

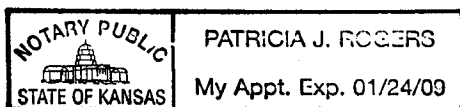
*Susan M. Olander*  
 Susan M. Olander (Name)  
 General Counsel  
 (Title)

Signed and sworn to before me this 21st day of November, 2006.

*Patricia J. Rogers*  
 Notary Public for the State of Kansas  
 Residing at: Lenexa, Kansas  
 My Commission Expires: \_\_\_\_\_

(SEAL)

REC'D DEC 13 2005





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November 28, 2006

(SENT VIA FIRST CLASS MAIL)

Clerk of Court  
Montana Workers Compensation Court  
1625 11<sup>th</sup> Avenue  
P.O. Box 537  
Helena, MT 59624-0537

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

Dear Deputy:

Enclosed for filing please find a Motion to Dismiss and  
Supporting Brief along with a copy to be conformed. We would  
appreciate if you would return the conformed copy to our office  
in the enclosed postage paid envelope. Thank you.

Sincerely,

BURK, LEE & BIELER, PLLC

A handwritten signature in cursive script, appearing to read 'Jessica Langford', is written over the typed name.

Jessica Langford  
Paralegal to William R. Bieler

Encl.: Motion to Dismiss (Original and Copy)  
SASE