

**FILED**

DEC - 4 2006

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,

Petitioner,

vs.

LIBERTY NORTHWEST INSURANCE  
CORPORATION,

Respondent/Insurer,

and

MONTANA STATE FUND,

Intervenor.

WCC No. 2001-0300

MOTION TO DISMISS

COMES NOW Respondents Affiliated FM Insurance Company and Factory Mutual Insurance Company and move this Court to dismiss them from the above-entitled action. Pursuant to this Court's *Memo* of December 7, 2005, this motion is supported by the attached affidavit.

Dated this 1<sup>st</sup> day of December 2006.

CROWLEY, HAUGHEY, HANSON,  
TOOLE & DIETRICH P.L.L.P.  
Attorneys for FM Global

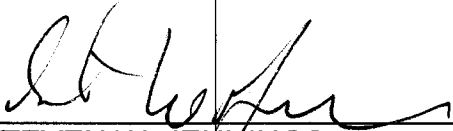
  
STEVEN W. JENNINGS

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 1<sup>st</sup> day of December 2006:

- U.S. Mail
- FedEx
- Hand-Delivery
- Facsimile
- Email

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

  
\_\_\_\_\_  
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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,

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WCC No. 2001-0300

AFFIDAVIT

STATE OF RHODE ISLAND )

:ss

County of Providence )

I, William H. Dunn, III, being first duly sworn upon oath, depose and say:

I, William H. Dunn, III, am the Senior Claims Examiner for Affiliated FM Insurance Company and Factory Mutual Insurance Company (collectively "FM Global").

In my capacity as Senior Claims Examiner of FM Global, I am authorized to make the statements set forth in this affidavit on behalf of FM Global, and to bind FM Global by these statements.

After a review of our records, I swear under oath that FM Global should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

- \_\_\_\_\_ has never written workers' compensation insurance in the State of Montana.
- FM GLOBAL does not have any Montana claims.
- FM GLOBAL has no claimants meeting the Court's criteria in this matter as set forth in the summons.
- \_\_\_\_\_ was or is in liquidation during the period in question set forth in the amended summons served upon me.

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[s] may conduct discovery and investigation for the limited purpose of prove or disproving the foregoing statement(s) made by me on behalf of FM Global. After such 90 days, if no objection is lodged by counsel for Petitioner[s], the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

I declare under penalty of perjury that the foregoing is correct.

Dated this 20th day of November 2006.

William A. Deery  
NAME

Sr. Claims Examiner  
TITLE

Signed and sworn to before me on this 20th day of November, 2006.

Kimberly H. Balkun  
[Signature of Notary]

Kimberly H. Balkun  
[Typed, stamped or printed Name of Notary]

Notary Public for the State of Rhode Island  
Residing at Warwick

[City of Residence]

My commission expires: December 2009

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH P.L.L.P.

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Attorneys are licensed in Montana (unless otherwise noted); \* also licensed in North Dakota; # also licensed in Wyoming; + not licensed in Montana

December 1, 2006

Workers' Compensation Court  
P. O. Box 537  
Helena, MT 59624-0537

RE: *Schmill v. Liberty NW Ins. Co. & MT State Fund*  
WCC No. 2001-0300

Dear Clerk:

Enclosed please find the original and one copy of a Motion to Dismiss in the above-referenced matter. After filing the original, please conform the copy and return it to our office in the envelope provided.

Thank you in advance for your assistance with this matter.

Sincerely yours,

CROWLEY, HAUGHEY, HANSON,  
TOOLE & DIETRICH P.L.L.P.



JENNILEE C. BAEWER

Legal Secretary to Steven W. Jennings