

Bothe & Lauridsen, P.C.
Attorneys at Law



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KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
DAVID M. SANDLER

5 HIGHWAY 2 EAST
P.O. BOX 2020
COLUMBIA FALLS, MT 59912

(406) 892-2193
1 (800) 354-3262
FAX (406) 892-0207
E-MAIL: legalpad@digisys.net
WEBSITE: www.bandllaw.com

JOHN H. BOTHE
(1951-1996)

September 15, 2006

Mr. KD Feedback
GOUGH, SHANAHAN, JOHNSON
& WATERMAN
P.O. Box 1715
Helena, MT 59624-1715

FILED

SEP 18 2006

OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

RE: Teck Cominco American Inc.
SCHMILL v. LIBERTY NW INS. CORP., et al.
WCC No. 2001-0300

Dear Mr. Feedback:

I was confused by your recent filing of an Affidavit in the above-entitled matter, as I had you previously responding to the Summons by pleading dated February 24, 2006. In that pleading, you do not submit an affidavit from the insurer identifying a basis for dismissal from this lawsuit, but instead filed a substantive response to the claim for common fund attorney fees.

Despite your prior substantive response to the Summons, I would consider dismissing your client if you were to provide me with the following information:

1. Please describe the procedure used to determine Teck Cominco American Inc. "has no claimants meeting the Court's criteria as set forth in the Summons."
2. Please indicate the total number of occupational disease claims that Teck Cominco American Inc., had in Montana occurring on or after July 1, 1987.
3. Please indicate how many of the claims identified in response to question no. 2 involved the payment of temporary total disability benefits.

If I do not receive substantive answers to the foregoing questions within the 90 days permitted in paragraph 5 of the Summons, then I will advise the Court that I object to the dismissal of your client from this litigation.

DOCKET ITEM NO. 280

Page 2
September 15, 2006

Thank you for your anticipated cooperation in responding to this correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Wallace".

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

cc: Montana Workers' Compensation Court