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**FILED**

JUN 15 2007

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

Attorneys for, Lumberman's Underwriting Alliance,  
ASARCO, Inc., Benefis Healthcare, Continental Casualty Co.,  
Golden Sunlight Mines, Northwest Healthcare, Corp.,  
Northwestern Energy, LLC, F.H. Stoltze Land &  
Lumber Co., Plum Creek Timber Co. Inc, Rosauers,  
and Safeway.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

CASSANDRA SCHMILL,

Petitioner,

v.

LIBERTY NORTHWEST INSURANCE  
CORPORATION,

Respondent/Insurer,

and

MONTANA STATE FUND,

Intervenor.

WCC NO. 2001-0300

**LUMBERMAN'S RESPONSE TO  
PETITIONER'S MOTION TO COMPEL**

COMES NOW Lumberman's Underwriting Alliance ("LUA"), by and through its attorneys of record, and hereby offers its response to Petitioner's Motion to Compel.

Respondent is not going to engage in the emotional attacks iterated in Petitioner's counsel's motion. This is not an issue which should be wasting the Court's valuable time.

Respondent's response to Petitioner's counsel is, and has been, simple: comply

DOCKET ITEM NO. 377

with the Workers' Compensation Court's rules of procedure and orders. Petitioner's counsel has not done so on two occasions now. The first was relative the service of process of Respondent's response to the summons. The second was with respect to the so called "discovery letter." No such form of discovery exists under the Workers' Compensation Court's rules of procedure. The customary procedure for written discovery under the rules of procedure is to submit written interrogatories, in pleading form, to the opposing party and file a notice of service with the Court since discovery is not typically filed with the Court. Petitioner has not complied with the rules of procedure for this Court.

Petitioner's motion to compel and request for attorney's fees must be denied as no formal discovery has even been served upon the Respondent. As such, there is nothing for this Court to compel. Respondent respectfully awaits Petitioner's compliance with the rules of procedure and will timely file its formal responses, together with a notice of service.

Lastly, rather than wasting the Court's valuable time with a nine page motion, Petitioner's counsel simply could have complied with rules of procedure and served formal discovery which the Respondent would have timely answered in accordance with ARM §24.5.323.

DATED this 13<sup>th</sup> day of June, 2007.

HAMMER, HEWITT, JACOBS & FLOCH, PLLC



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**CERTIFICATE OF SERVICE**

This is to certify that I, Bryce R. Floch sent on this 13<sup>th</sup> day of June, 2007, the forgoing attached **LUMBERMAN'S RESPONSE TO PETITIONER'S MOTION TO COMPEL Fees** was duly serviced upon the following attorneys of record, by depositing a true copy thereof in the United States mail, postage paid, addressed as:

Laurie Wallace  
PO Box 2020  
Columbia Falls, MT 59912



Bryce R. Floch

**MOTION TO DISMISS LUMBERMAN'S UNDERWRITING ALLIANCE**