

MONTANA WORKERS' COMPENSATION COURT

Minute Book Hearing No. 4468
Volume XXIV

Helena, Montana
April 30, 2013

CASSANDRA SCHMILL

Laurie Wallace

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Larry W. Jones

and

MONTANA STATE FUND (Intervenor)

Bradley J. Luck
Thomas E. Martello

WCC No. 2001-0300

Oral argument came on this date at 10:00 a.m., at the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana. The Honorable James Jeremiah Shea, Judge of the Workers' Compensation Court, presided. Laurie Wallace represented Petitioner Cassandra Schmill. Steven W. Jennings represented Affidavit Insurers.¹ Larry W. Jones represented Respondent Liberty Northwest Insurance Corporation. The court reporter was Kim Johnson.

Affidavit Insurers requested this hearing to present argument on their motion for reconsideration of this Court's Order Sustaining Petitioner's Objections to Dismissing Certain Insurers.

¹ American Alternative Insurance Company, American Reinsurance Company, Bituminous Casualty Corporation, Bituminous Fire & Marine Insurance Company, Centre Insurance Company, Clarendon National Insurance Company, Fairfield Insurance Company, Farmers Insurance Exchange, Genesis Underwriting Management on behalf of Genesis Insurance Company, Great American Alliance Insurance Company, Great American Assurance Company, Great American Insurance Company, Great American Insurance Company of New York, Great American Spirit Insurance Company, Greenwich Insurance Company, Hartford Accident and Indemnity Company, Hartford Casualty Insurance Company, Hartford Fire Insurance Company, Hartford Insurance Company of the Midwest, Hartford Underwriters Insurance Company, Middlesex Insurance Company, Montana Health Network Workers' Compensation Insurance Trust, Petroleum Casualty Company, Property & Casualty Insurance Company of Hartford, Republic Indemnity, Republic Indemnity of California, Sentinel Insurance Company, LTD, Sentry Insurance A Mutual Company, Sentry Select Insurance Company, Stillwater Mining Company, Truck Insurance Exchange, Trumbull Insurance Company, Twin City Fire Insurance Company, Universal Underwriters Insurance Company, XL Specialty Insurance Company, American Guarantee & Liability Insurance Company, American Zurich Insurance Company, Assurance Company of America, Chubb Indemnity Insurance Company, Chubb National Insurance Company, Executive Risk Indemnity Inc., Federal Insurance Company, Great Northern Insurance Company, Pacific Indemnity Company, Quadrant Indemnity Company, Colonial American Casualty & Surety, Everest National Insurance Company, Fidelity & Deposit Company of Maryland, General Reinsurance Corporation as Successor to Named Insurer Northstar Reinsurance Corporation, Maryland Casualty Company, Mid Century Insurance Company, Northern Insurance Company, Old Republic Insurance Company, PPG Industries, Inc., Zurich American Insurance Company, as Successor to Valiant Insurance Company, Zurich American Insurance Company, Zurich American Insurance Company of Illinois.

Mr. Jennings explained the search method used by Affidavit Insurers and argued that Affidavit Insurers' search was over inclusive. He argued that he believes Petitioner misunderstood Affidavit Insurers' search methodology. Mr. Jennings further advised that Affidavit Insurers used the blank affidavit form provided by the Court which does not include the search dates.

Ms. Wallace explained that after Mr. Jennings' explanation of Affidavit Insurers' search methodology at the March 8, 2012, omnibus hearing, she believed Affidavit Insurers' methodology had allowed a gap from June 22, 2001, to April 10, 2003, where open claims might be found pursuant to *Flynn*. Ms. Wallace advised that after hearing Mr. Jennings' explanation today, she is satisfied with the methodology used by Affidavit Insurers and withdrew her objection to the dismissal of Affidavit Insurers.

I held that Affidavit Insurers need not refile their affidavits.

The Court will grant the dismissals of Affidavit Insurers.

Court adjourned at 10:25 a.m.

JAMES JEREMIAH SHEA
Judge

c: Parties of Record – Via WebSite

JJS/JB/JP

Docket Item No. 582