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IN THE WORKERS COMPENSATION COURT OF THE STATE OF MONTANA
IN AND FOR THE AREA OF KALISPELL
BEFORE THE WORKERS' COMPENSATION JUDGE

CASSANDRA SCHMILL,)	
)	WCC NO. 2001-0300
Petitioner,)	
)	
vs.)	PETITIONER'S REPSONSE TO
)	AIG INSURERS' MOTION TO DISMISS
LIBERTY NW INS. CORP.,)	
)	
Respondent/Insurer,)	
)	
and)	
)	
MONTANA STATE FUND,)	
)	
Intervenor.)	
_____)	

COMES NOW the Petitioner, CASSANDRA SCHMILL, by and through her attorney of record, and files the following response to the Motion to Dismiss filed by AIG Insurers ("AIG"). For the reasons stated herein, the Motion should be denied.

In its Affidavit, AIG acknowledged that it has a claim that falls within the parameters of the *Schmill* common fund. AIG further states that it has paid the underpayment of TTD benefits to the claimant and that it has withheld a 25% attorney fee pursuant to the Petitioner's claim for such benefits. Until AIG is directed by this Court to pay the attorney fee to either the claimant, Ms. Allison, or the Petitioner, the Respondent should not be dismissed from this litigation as the Court would then lose jurisdiction over those benefits. If the Court is prepared to order the disbursement of the

withheld attorney fees to either Ms. Allison or the Petitioner, then the Petitioner would not object to the concurrent dismissal of the AIG Insurers from this action.

WHEREFORE, for the foregoing reasons, the Petitioner respectfully requests that the Court deny AIG's Motion to Dismiss in its current form.

DATED this 14 of January, 2015.

ATTORNEYS FOR PETITIONER

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By: 
LAURIE WALLACE

CERTIFICATE OF MAILING

I, Robin Stephens, do hereby certify that on the 14 day of January, 2015, I served a true and accurate copy of the PETITIONER'S RESPONSE TO AIG INSURERS' MOTION TO DISMISS by e-mail and U.S. mail, first class, postage prepaid to the following:

Mr. Steve Jennings
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Robin Stephens