

LAURIE WALLACE
Bothe & Lauridsen, P.C.
P.O. Box 2020
Columbia Falls, MT 59912
Telephone: (406) 892-2193
Attorneys for Petitioner/Schmill

FILED

MAY 22 2015

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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 MOTION FOR
)	CONTEMPT, PENALTY, AND
LIBERTY NW INS. CORP.,)	ATTORNEY FEES
)	
Respondent/Insurer,)	
)	
and)	
)	
MONTANA STATE FUND,)	
)	
Intervenor.)	
_____)	

COMES NOW the Petitioner, CASSANDRA SCHMILL, by and through her attorney of record, and moves the Court to find the Respondent, Liberty NW Ins. Corp., in contempt of Court for failing to comply with this Court's Order dated July 10, 2007, which ordered Respondent to find and pay *Schmill* claims. (Docket No. 380.) Petitioner further moves the Court to order Respondent to pay a 20% penalty on all *Schmill* benefits ultimately paid, as well as a 25% attorney fee. Petitioner's motion is fully supported by the facts and law and should be granted.

FACTS

In *Schmill v. Liberty NW Ins. Corp., et al*, 2003 MT 80, 315 Mont. 51, 67 P.3d 290 (hereinafter "*Schmill I*"), the apportionment provision of the ODA was found unconstitutional entitling occupational disease claimants to full indemnity benefits. In *Schmill v. Liberty NW Inc. Corp., et al.*, 2005 MT 144, 327 Mont. 293, 114 P.3d 204 (hereinafter "*Schmill II*"), *Schmill I* was found to be retroactive to all cases not yet final or

DOCKET ITEM NO. 608

settled. Additionally, Petitioner's counsel was found to be entitled to common fund attorney fees on all *Schmill* benefits paid.

On December 7, 2005, the WCC served a Summons on over 500 WC insurers who had issued policies in Montana, including Respondent, and ordered them to identify and pay *Schmill* claims. (Docket No. 79.) Thereafter, the parties disputed the scope of the retroactive application of the *Schmill I* decision and so the WCC ordered briefing of the issues. By Order dated July 10, 2007, the WCC resolved those disputes by entering judgment as follows:

IT IS HEREBY ORDERED the "Findings and Conclusions of Special Master on Issues Presented Pursuant to December 11, 2006, Order of the Workers' Compensation Court" **are adopted** as follows:

3a. The retroactive application of *Schmill* involves the period from July 1, 1987, through June 21, 2001, inclusive. Unless otherwise excluded, all claims arising out of occupational diseases which were first diagnosed as work-related during this period should be identified, reviewed, and paid under *Schmill*, subject to specific objections that arise in particular cases or with regard to categories of cases.

3b. Excluded from the retroactive application of *Schmill* are cases which were settled through a department-approved settlement or court-ordered compromise of benefits.

3c. Excluded from the retroactive application of *Schmill* are cases in which a final judgment was entered by the WCC, and that judgment is not pending on appeal to the Montana Supreme Court, if the circumstances of the particular judgment indicate that the underlying occupational disease claim is no longer actionable. However, the Special Master reserves ruling on specific Class V issues until presentation of specific claims or until interested parties present particular classes of "judgment" situations for negotiation or ruling.

3d. Neither the doctrine of laches nor any particular statute of limitations limits the retroactivity of cases in the implementation period noted above.

3e. Claims handled by the UEF are subject to the retroactive application of *Schmill*, though the UEF may later

argue that reduction in payment on particular claims is necessary pursuant to statutory mandate. (Docket No. 380.)

Respondent did not appeal this Order.

In its Status Report to the Court dated August 31, 2007, Respondent represented that it was not raising any further legal disputes regarding entitlement to *Schmill* benefits and that the only remaining issues for resolution were implementation issues. (Docket No. 390.) Between August of 2007 and May of 2009, Respondent did not provide anything to Petitioner indicating that it had searched its files for *Schmill* claimants, or in any way attempted to comply with the Court's Order of July 10, 2007. To the contrary, in a Status Report to the Court dated June 20, 2008, Respondent stated that it had not yet started the implementation process, but that it anticipated doing so in the near future. (Docket No. 433.)

On May 19, 2009, Respondent filed a Motion to Stay all implementation proceedings until there was a decision in *Flynn v. Montana State Fund*, 2011 MT 300, 363 Mont. 55, 267 P.3d 23, regarding the definition of the term "paid in full." (Docket No. 460.) By Order dated October 13, 2009, the WCC denied Respondent's Motion for Stay. (Docket No. 466.)

In contrast to Respondent's attempts to delay identification of *Schmill* claimants, by April of 2007, the State Fund was filing interim *Schmill* payment letters with the WCC. (Docket Nos. 368, 370, 371, 373, 378.) In March of 2008, the State Fund represented to the WCC that it had the ability at that time to identify all *Schmill* claims. (Docket No. 414.)

Beginning in March of 2010, Petitioner began receiving computer printouts from Respondent of potential *Schmill* claims. The parameters of the searches were being refined with each run. (Ex. 1.) At a hearing on October 25, 2010, the parties discussed some implementation issues and the WCC directed the parties to use the procedures adopted by the State Fund to move the implementation process forward. (Docket No. 478.)

On March 8, 2012, the WCC held an Omnibus Hearing involving all common fund cases in order to resolve any outstanding implementation issues following the decision in *Flynn* regarding the definition of "paid in full." (Docket No. 518.) At the hearing, Respondent confirmed that the implementation process had started and that several lists of potential *Schmill* claimants had emerged. (Id., p. 64.) In order to determine if the search parameters were sufficiently accurate, Respondent's counsel indicated that if both sides agreed, the next step in the process might be to review the identified claims by hand to see if the search process accurately identified *Schmill* claims. (Id.)

On July 19, 2012, Petitioner received an e-mail from Respondent's counsel in which it was represented that Respondent was close to implementing the final review process. (Ex. 2.) Despite numerous requests, Respondent did not follow-up on its e-mail of July 19,

2012, until November 19, 2013, when Petitioner received a new computer run. (Ex. 3.) In an accompanying e-mail, the Respondent detailed a specific implementation order for submission to the WCC. Petitioner's counsel contacted Respondent's counsel on December 11, 2013, with several concerns regarding the proposed order, which were to be followed up by the adjuster. (Ex. 4.) A year and a half later, Petitioner has not heard anything further from Respondent concerning the proposed implementation order despite repeated requests. (Ex. 5.)

ARGUMENT

All judicial officers of the state are given the power to punish for contempt and to compel obedience to the officer's official orders. Sections 31-71-402, -403, MCA. The WCA grants the same powers to the office of the Workers' Compensation Judge. Section 39-71-2901, MCA. A judgment of contempt must be supported by substantial evidence and must be within the jurisdiction of the court. *Malee v. District Court of Second Judicial District*, 275 Mont. 72, 75, 911 P.2d 831, 832. One of the purposes of an order of contempt is to "persuade the contemnor to do what the law requires." *Id.* A party commits indirect contempt when it fails to follow a court's order. *Id.*

On July 10, 2007, this Court entered judgment wherein it ordered that:

3a. The retroactive application of *Schmill* involves the period from July 1, 1987, through June 21, 2001, inclusive. Unless otherwise excluded, all claims arising out of occupational diseases which were first diagnosed as work-related during this period **should be identified, reviewed**, and paid under *Schmill*, subject to specific objections that arise in particular cases or with regard to categories of cases. [Emphasis added.]

In its order, the WCC went on to identify two classes of cases that were excluded from the *Schmill* ruling. Respondent did not appeal this Order. More to the point, Respondent has never complied with this Order after nearly eight years. The Respondent's efforts to avoid and delay compliance with the WCC's Order over this eight year period more than justifies an order of contempt.

In its Status Report to the WCC dated June 20, 2008, Respondent admitted that it had done nothing to identify and pay *Schmill* claims. Next, instead of putting its efforts into complying with the WCC's Order, in May of 2009 Respondent filed a Motion to Stay all implementation proceedings until a ruling came down in the *Flynn* case. After Respondent's motion was denied, Respondent appeared to put some effort into completing the implementation process, but just when the parties were about to agree on the search parameters, Respondent refused to communicate with Petitioner's counsel. From August of 2012, through the present, Petitioner has sent numerous requests to Respondent seeking to complete the implementation process to no avail. Petitioner received a new computer run and a new list of search parameters from Respondent in

November of 2013, but again when Petitioner sought to finalize the implementation process, Respondent ignored her requests.

The decisions in *Schmill I* and *Schmill II* imposed a duty on Respondent to find and pay *Schmill* claims. Respondent's liability to pay *Schmill* benefits is not in dispute and it is not on appeal. Eight years is more than enough time for Respondent to locate and pay its *Schmill* claims. Numerous insurers have successfully undertaken the file review required to identify and pay these benefits, including the State Fund who issued interim payment letters as earlier as April of 2007. Respondent cannot justify its delay in locating and paying *Schmill* benefits and it should be found in contempt of this Court's Order of July 10, 2007.

Upon finding Respondent in contempt, Petitioner would ask the WCC to issue three orders. First, the Respondent should be required to complete the implementation process by a date certain. Second, the Respondent should be required to pay a 20% penalty on all benefits paid for its unreasonable delay of eight years in identifying and paying the *Schmill* claimants. Third, the Respondent should be required to pay a 25% attorney fee on all benefits paid for its unreasonable conduct in refusing to complete the implementation process over the past eight years despite repeated efforts by Petitioner to do so. It is within the Court's authority to issue the foregoing orders and the facts of this case justify the issuance of such orders. See sections 39-71-611, -612, -2901, and -2907.


WHEREFORE, for the foregoing reasons, the Petitioner respectfully requests that the Court find the Respondent in contempt and order the Respondent to complete the implementation process by a date certain and to pay a 20% penalty and a 25% attorney fee.

DATED this 19 of May, 2015.

ATTORNEYS FOR PETITIONER

BOTHE & LAURIDSEN, P.C.
P.O. Box 2020
Columbia Falls, MT 59912
Telephone: (406) 892-2193

By:



LAURIE WALLACE

CERTIFICATE OF MAILING

I, Robin Stephens, do hereby certify that on the 19 day of May, 2015, I served a true and accurate copy of the PETITIONER'S MOTION FOR CONTEMPT, PENALTY AND ATTORNEY FEES by U.S. mail, first class, postage prepaid to the following:

Mr. Larry Jones
WILLS LAW FIRM
323 W. Pine St.
Missoula, MT 59802



Robin Stephens

**LAW OFFICES OF
LARRY W. JONES**

Employees of the Liberty Mutual Group

Larry W. Jones

2291 W. Broadway, Suite 3
Missoula, MT 59808

Telephone (406) 543-2433
Facsimile (800) 548-0731

Paralegal
Robin E. Schmitt

Direct Dial: (406) 543-2420
LarryW.Jones@LibertyMutual.com

March 05, 2010

Ms. Laurie Wallace
Bothe & Lauridsen, PC
PO Box 2020
Columbia Falls, MT 59912

RE: Schmill v. Liberty Northwest Insurance Corp. & Montana State Fund, et al
WCC No. 2001-0300; Claim No. WC687-030696-00

Dear Laurie:

By way of background the possible class of cases that are relevant are occupational disease claims between July 1, 1987 and June 22, 2001.

The information I received is that the cases are coded and it appears the relevant codes for occupational disease cases would be codes 60-80 which denote occupational diseases, contagious diseases and cumulative traumas.

The corresponding identifier for each code is as follows:

60	Dust disease NOC
61	Asbestosis
62	Pneumoconiosis
63	Byssinosis
64	Silicosis
65	Respiratory Disorders (gases, fumes, chemicals, etc.)
66	Poisoning – chemical
67	Poisoning – metal
68	Dermatitis
69	Mental Disorder
70	Radiation
71	All OTH occupational diseases
72	Loss of hearing (non-traumatic)
73	Contagious disease
74	Cancer
75	AIDS
76	VDT – related disease
78	Carpal tunnel syndrome
80	All other cumulative injuries



Ms. Laurie Wallace

March 05, 2010

Page 2 of 2

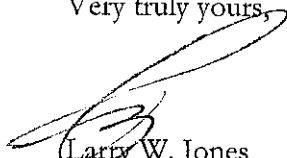
I have attached a spreadsheet numbered pages 000001 through 000068 of the cases that were identified using those codes and the indemnity paid. Some of them have a date of injury after June 22, 2001. It is my understanding that this selection of cases was made using the above codes on a date after June 22, 2001.

I will need to follow up to see if this list includes all of the Liberty companies that had occupational disease claims during the relevant time period in Montana.

As regards Safeco I will have to make a separate inquiry regarding their occupational disease claims during the relevant time period.

After reviewing the enclosed materials, please call me to discuss how we might proceed.

Very truly yours,



Larry W. Jones
Attorney at Law

LWJ/smw
Enclosure
C: Ms. Anna Waller

Bothe & Lauridsen, P.C.
Attorneys at Law

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

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

(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)

May 13, 2010

Mr. Larry Jones
Law Offices of Larry W. Jones
2291 W. Broadway, Ste. 3
Missoula, MT 59808

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.
WCC No. 2001-0300
Your Claim No: WC687-030696-00

Dear Larry:

I have reviewed your letter of March 5, 2010, and the enclosures. I have questions concerning those documents as I did not fully understand the information contained therein. Please provide me with answers to the following questions:

1. You list claim codes 60-80 as being representative of occupational diseases, please provide me with a complete copy of all claim codes so that I can confirm that these are the only potential occupational disease claim codes.
2. How far back were Liberty claims adjusters coding the claims using the codes identified in your correspondence?
3. Under the claim status column, what does "F" and "O" stand for?
4. What is included in the "paid indemnity" column?
5. What is meant by "TT disability days?"
6. How can you pay \$26,774 in indemnity benefits and have a zero in the TT disability days column?
7. In the column entitled "classifications" what do the letters stand for?
8. How can you have an "F" in the claim status column and not have paid anything in any category?
9. What is meant by "report date?"


Page 2
May 13, 2010

10. What is meant by "fatal PT?"
11. What is meant by "claim closed date?"

I note that many of the injury dates are beyond the ending date for *Schmill* claims which is June 22, 2001. Please remove all claims with injury dates beyond that date. Of the remaining claims, I would request at this time that all claims with paid indemnity of any amount should be reviewed as potential *Schmill* claims. I would also ask that all claims with any TT disability days should be reviewed for possible inclusion in the *Schmill* common fund.

I look forward to hearing from you regarding these matters.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

**LAW OFFICES OF
LARRY W. JONES**

Employees of the Liberty Mutual Group

2291 W. Broadway, Suite 3
Missoula, MT 59808

Telephone (406) 543-2433
Facsimile (800) 548-0731

Larry W. Jones

Paralegal
Robin E. Schmitt

Direct Dial: (406) 543-2420
LarryW.Jones@LibertyMutual.com

May 27, 2010

Ms. Laurie Wallace
5 Highway 2 East
P.O. Box 2020
Columbia Falls, MT 59912

RE: Schmill v. Liberty Northwest Insurance Corp. & Montana State Fund, et al
WCC No. 2001-0300; Claim No. WC687-030696-00

Dear Laurie:

Thank you for your letter May 13, 2010, I will respond to your questions following the same paragraph numbering you used.

1. Attached are two pages. One is captioned "Occupational or Contagious Disease or Cumulative" and the other is captioned "Nature of Specific Injury". I hope you find them helpful.
2. Based on conversation with the current personnel, our best estimate is 1988.
3. The "F" refers to closed and "O" stands for open.
4. The "paid indemnity" column refers to TTD, TPD, PTD and vocational rehabilitation benefits.
5. This refers to the number of TTD days paid.
6. You reference a specific claim. In that claim it was settled on a disputed initial compensability basis.
7. In the classifications column the letter "S" stands for "SUS" and is a medical only claim not open in the computer system. The letter "H" stands for "HOD" which is any open claim in our system. The letter "R" stands for "regular" which in the Liberty Mutual claim system, business markets only, is used when a "HOD" claim reaches a certain reserve figure and then is converted from "H" to "R".
8. By way of example, a person could file a claim but have no medical treatment or lost time.
9. The "report date" is the date we received either the employer's first report or the claim for compensation.
10. The reference is either to a fatality or a PTD claim.

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11. The "claim closed date" is the date the claim was closed in the computer system.

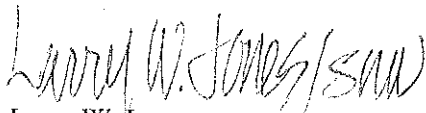
In discussing your letter with Gary Holt we noticed the list of claims had been run it appears in December of 2005. There could have been additional development since that time relevant to the Schmill common fund claim. Therefore we are going to have a new list run for submission to you.

You close your letter by asking that any claimant before June 22, 2001 in which indemnity benefits have been paid in any amount and any "TT disability days" should be reviewed. I believe when we last discussed this case you told me you had not previously been involved in a common fund case and therefore had no experience with the history of the implementation procedures that have been adopted in earlier cases. I explained that in other cases the implementation procedures to review common fund cases had been brought before the court and agreed to by the parties. The intent of the implementation process is to satisfy both parties that the relevant claims are identified, reviewed accordingly and that there need not be a second review.

Also in the two common fund cases in which I have been directly involved the common fund attorney, after the completion of the implementation process, physically reviewed the file. Given that there will be a new list run that may identify additional cases and the need to complete the implementation process, my recommendation is that we schedule a conference call with Judge Shea to reach an agreement on the implementation process and who will review the relevant files identified through that process.

After review of this letter, I would appreciate a call from you.

Very truly yours,



Larry W. Jones
Attorney at Law

LWJ/smw

Enclosure

C: Ms. Anna Waller/Mr. Gary Holt

OCCUPATIONAL OR CONTAGIOUS
DISEASE OR CUMULATIVE

- | | | | |
|----|--|---------------------------|---|
| 60 | Dust Disease NOC.
(All Other Pneumoconiosis) | 68 | Dermatitis |
| 61 | Asbestosis | 69 | Mental Disorder |
| 62 | Black Lung | 70 | Radiation |
| 63 | Byssinosis | 71 | All Other Occupational
Disease - NOC |
| 64 | Silicosis | 72 | Loss of Hearing (Other
Than Traumatic) |
| 65 | Respiratory Disorders | 73 | Contagious Diseases |
| 66 | Poisoning - Chemical
(Organic or Man Made) | 74 | Cancer |
| 67 | Poisoning - Metal | 75 | Aids |
| 76 | Video Display Terminal (VDT) - Related Disease
(Choose one of the following for complete injury description
code): | | |
| | 1076 | VDT - Head | |
| | 1476 | VDT - Eyes | |
| | 2076 | VDT - Neck | |
| | 3076 | VDT - Upper Extremities | |
| | 4076 | VDT - Trunk | |
| | 5076 | VDT - Lower Extremities | |
| | 9076 | VDT - Multiple Body Parts | |
| 77 | Mental Stress | | |
| 78 | Carpal Tunnel Syndrome | | |
| 80 | All Other Cumulative Injury (NOC) | | |

MULTIPLE INJURIES

- 90 Multiple Physical Injuries
91 Multiple Injuries (Including Both Physical and
Psychological)

NATURE OF SPECIFIC INJURY

(Last Two Digits)

01 No Physical Injury	34 Hernia
02 Amputation	36 Infection
03 Angina Pectoris	37 Inflammation
04 Burn	40 Laceration
07 Concussion	41 Myocardial Infraction
10 Contusion	42 Poisoning General (Not OD or Cumulative)
13 Crushing	43 Puncture
16 Dislocation	46 Rupture
19 Electric Shock	47 Severance
22 Eucleation (Remove Organ or Tumor)	49 Sprain
25 Foreign Body	52 Strain
28 Fracture	53 Syncope (eg Swooning, Fainting)
30 Freezing	54 Asphyxiation
31 Hearing Loss (Traumatic Only)	55 Vascular
32 Heat Prostration	58 Vision Loss
	59 All Other Specific Injuries - NOC

**LAW OFFICES OF
LARRY W. JONES**

Employees of the Liberty Mutual Group

Larry W. Jones

2291 W. Broadway, Suite 3
Missoula, MT 59808

Telephone (406) 543-2433
Facsimile (800) 548-0731

Paralegal
Robin E. Schmitt

Direct Dial: (406) 543-2420
LarryW.Jones@LibertyMutual.com

June 11, 2010

Ms. Laurie Wallace
5 Highway 2 East
P.O. Box 2020
Columbia Falls, MT 59912

RE: Schmill v. Liberty Northwest Insurance Corp. & Montana State Fund, et al
WCC No. 2001-0300; Claim No. WC687-030696-00

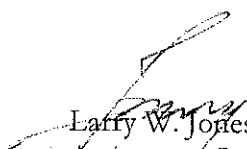
Dear Laurie:

This is to follow-up my letter with the new computer runs. I have attached a copy of the decision in *Baumgartner v. Liberty Northwest*, 1997 MTWCC 19. You will not find it on the computer run but it is an occupational disease case. You will note Liberty accepted liability for this claim as an injury and the claimant claimed he had an occupational disease. In checking with Gary Holt, Unit Leader, I was able to confirm that the case came in as an injury and was coded 56. This case may be an anomaly because as noted in the decision the case was clearly reported in terms of an injury but later medical evidence revealed it was an occupational disease. I was aware of this case based on my personal recollection and have not done an exhaustive computer search of the Workers' Compensation Court's website for possible other cases.

Because it is an occupational disease case during the relevant time period in which an apportionment was taken, I am bringing this to your attention.

If you have any questions, please contact me.

Very truly yours,


Larry W. Jones
Attorney at Law

LWJ/smw
Enclosure

C: Ms. Anna Waller/Mr. Gary Holt

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**LAW OFFICES OF
LARRY W. JONES**

Employees of the Liberty Mutual Group

Larry W. Jones

2291 W. Broadway, Suite 3
Missoula, MT 59808

Telephone (406) 543-2433
Facsimile (800) 548-0731

Paralegal
Robin E. Schmitt

Direct Dial: (406) 543-2420
LarryW.Jones@LibertyMutual.com

June ¹¹~~10~~, 2010

Ms. Laurie Wallace
5 Highway 2 East
P.O. Box 2020
Columbia Falls, MT 59912

RE: Schmill v. Liberty Northwest Insurance Corp. & Montana State Fund, et al
WCC No. 2001-0300; Claim No. WC687-030696-00

Dear Laurie:

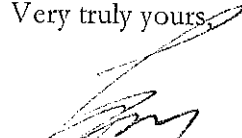
Enclosed is a computer run of June 3, 2010 for codes 60-80 as described in my letter to you of March 5, 2010. There are some additional headings. The first is jurisdiction which is self-explanatory. The next is injury cause, the third would be the medical payments and the fourth would be certain expenses paid on the claim other than medical or indemnity.

This computer run was done on June 3, 2010.

I have been told that this run includes Liberty Northwest, Liberty Mutual, and Wausau (Middle Market). Also I have been told that other named Liberty insureds in this matter were queried for codes 60-80 and no cases were found.

If you have any questions, please contact me.

Very truly yours,


Larry W. Jones
Attorney at Law

LWJ/smw

Enclosure

C: Ms. Anna Waller/Mr. Gary Holt

**LAW OFFICES OF
LARRY W. JONES**

Employees of the Liberty Mutual Group

Larry W. Jones

2291 W. Broadway, Suite 3
Missoula, MT 59808

Telephone (406) 543-2433
Facsimile (800) 548-0731

Paralegal
Robin E. Schmitt

Direct Dial: (406) 543-2420
LarryW.Jones@LibertyMutual.com

June 15, 2010

Ms. Laurie Wallace
5 Highway 2 East
P.O. Box 2020
Columbia Falls, MT 59912

RE: Schmill v. Liberty Northwest Insurance Corp. & Montana State Fund, et al
WCC No. 2001-0300; Claim No. WC687-030696-00

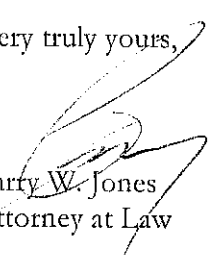
Dear Laurie:

Attached is the latest printout (14 pages) regarding cases with class codes 60-80. You will note it is somewhat different from the last one in that it provides additional information.

The # symbol followed by N/A, I am told means that we cannot identify the policy number because the information is in a software system called IWE. Gary Holt has asked Safeco to query its system for claims that could fall under the decision in *Schmill*.

If you have any questions, please contact me.

Very truly yours,


Larry W. Jones
Attorney at Law

LWJ/smw

Enclosure

C: Ms. Anna Waller/Mr. Gary Holt

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Laurie Wallace

From: Jones, Larry W [LARRYW.JONES@LibertyMutual.com]
Sent: Thursday, July 19, 2012 4:29 PM
To: bothe.lauridsen@optimum.net
Cc: Kern, Jaimie
Subject: Schmill

Laurie,

Jaimie Kern 543-2444 will be your contact on these cases. I believe the only implementation issues are related to questions you had about how some of the files were labeled, i.e., terminology that needed explaining. It appears once you and Jamie settle on the last implementation issues Jaimie will review the relevant files to see if the fall under Schmill. Jaimie is aware of the definition of settled in Flynn-Miller and knows to exclude those files. I believe Jaimie returns to the office on Monday. Thanks.

Larry W. Jones, Esq.
Law Offices of Larry W. Jones
Employees of Liberty Mutual Group, Inc.
2291 W. Broadway, Ste. 3
Missoula, MT 59808
Ph: 406-543-2420 / 800-735-7079 Ext. 2420
Fax: 800-548-0731
LarryW.Jones@LibertyMutual.com

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From: Larry Jones [ljones@willslawpc.com]
Sent: Tuesday, November 19, 2013 3:09 PM
To: Bothe.Lauridsen@optimum.net
Cc: Jaimie.Kern (jaimie.kern@libertynorthwest.com)
Subject: Schmill
Attachments: Schmill.3.21.13.xls

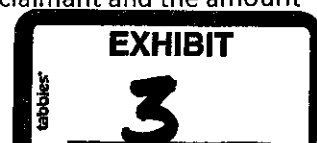
Follow Up Flag: Follow up
Flag Status: Completed

Laurie,

The attachment is the latest run by Jaimie. It includes the policy company information. Jaimie said this is the most accurate report she run. It identifies the claims that were coded with OD type codes, previously provided to you, and that group was reduced to those in which indemnity payment were made. If a claim was coded incorrectly, then Jaimie's search will not capture it. You will remember that when the first search was made, the Baumgartner case was not captured because it was not coded with an OD code. I had remembered that decision and Liberty used it to see if some OD cases had not been captured in the first search. Jaimie has since correctly coded that case. Jaimie knows of no method to capture potentially incorrectly coded files. The spread sheet does not include SAFECO cases. That will require an analysis of how that system can be searched.

Let me propose in summary form what Jaimie will do and what would be submitted as an implementation Order for the court's review and signature that would govern the implementation of the common fund.

1. The inclusive dates of the files to be considered for review are those with an OD date of July 1, 1987, through June 22, 2001.
2. Pre 1/1/93 claims may be in Liberty's computer system only if a payment were made on the claim after 1/1/93.
3. For any claim not electronically stored, it may exist in a paper file. Liberty would only have a paper file on a claim for 10 years after the last payment was made.
4. Liberty will conduct its search only by computer review of files, except for those that only exist in a paper file, if any, in Liberty's possession.
5. The initial file selection was based on the use of computer codes that suggest the claim involved an OD.
6. If a file was not properly coded, then it was not captured as a possible common fund case for review.
7. This group was further reduced by including only files in which an indemnity payment was made.
8. The remaining files will be examined initially to determine if they have been settled.
9. A settled case is one in which either the Division, ERD and/or the Court has approved a settlement or a case that has been paid in full.
10. A case has been paid in full if the claimant received all applicable benefits prior to a new judicial decision and has not received subsequent benefits or his or her pre-judicial decision claim.
11. A settled claim will not be reviewed because it is not part of the common fund.
12. The remaining cases will have their payment history reviewed to determine if apportionment was made.
13. Cases in which apportionment was not made are not part of the common fund.
14. The remaining cases will be identified by claim number and the amount of the apportionment.
15. The apportionment will divided into 25% as a possible common fund attorney fee and 75% as a possible common fund payment to the claimant.
16. A letter will be sent to the last known address of the claimant setting forth an explanation of why the claimant is eligible for a common fund payment and the amount of the payment.
17. The claimant will also be notified that to receive the payment he/she will have to confirm their identity [Laurie- in a way yet to be determined] and notify Liberty where the check is to be sent.
18. Liberty will then make the common fund payment to the claimant and allocate the previously determined 25% as a possible common fund attorney fee.
19. Liberty will make an accounting to the Court of all those cases in paragraph 14 by claim number, each amount of apportionment, identify those claims in which a common fund payment was made to a claimant and the amount of possible common fund attorney fees withheld on that claim.



20. The Court will notify the parties if Liberty can release the common fund attorney fees or if a hearing will be held to determine if fees will be paid and if so the amount.
21. The Court will issue a closure order ending Liberty's responsibility to search for common fund cases and direct it to make a common fund reviews of a case, if any, that comes to its attention as common fund case subject to payment such as one falling within the above inclusive dates and meeting the other criteria in which a payment was made after the date of the Court's closure order.

This is a draft intended to get the implementation details ironed out so that the review can begin after receipt of a Court order adopting the implementation process. Let me know your thoughts about possible changes and additions. There would need to be some boiler plate language added including recitals, but I wanted to focus now on the actual steps Liberty would be expected to take and once taken the common fund search and payouts have ended and Liberty would no longer have to search its files I have used the term Liberty to include all the Liberty affiliated companies, except SAFECO, that wrote work comp during the relevant time period..

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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Bothe & Lauridsen, P.C.
Attorneys at Law

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

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: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

November 14, 2013

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

I am still waiting to receive a response to the numerous letters I have sent requesting the status of the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims. To date, I have not received a response. Please provide me with the requested information as soon as possible.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.montanalawsuits.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

October 18, 2013

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

I have several letters requesting the statute of the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims. To date, I have not received a response. Please provide me with the requested information as soon as possible.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.montanalawsuits.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

October 4, 2013

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

Please advise me of the status of the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.montanalawsuits.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

September 27, 2013

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

Please advise me of the status of the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.montanalawsuits.com

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: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

September 12, 2013

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

Please advise me of the status of the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.montanalawsuits.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

February 27, 2013

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Kerns:

Just prior to Mr. Jones leaving Liberty, he advised me that you would be working on the *Schmill* claims and specifically that you were testing the computer program developed by Liberty to try and identify *Schmill* claimants. It has been a number of months since Mr. Jones left Liberty and I have still not heard from you regarding the outcome of those tests. Please advise me if you have run the computer search for *Schmill* claimants and if you have done the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims.

Please call me to discuss this matter in more detail.

Sincerely,



LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

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: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

January 16, 2014

Mr. Larry Jones
WILLS LAW FIRM PC
323 West Pine
Missoula, MT 59802

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.

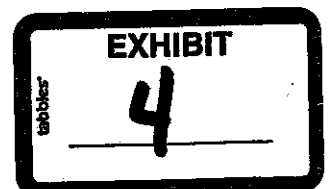
Dear Larry:

In our conversation of December 11, 2013, you indicated that Jamie Kerns would contact me regarding items nos. 3 and 17 of your e-mail dated November 19, 2013, and that she would contact me by January 15, 2014, to advise me of Safeco's plan regarding its file review for *Schmill* claims. To date, I have not heard from Jamie regarding either of these matters. Please have Jamie contact me as soon as possible so that we can keep this matter moving forward.

Sincerely,

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs



Bothe & Lauridsen, P.C.
Attorneys at Law

*Common Fund
File*

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

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: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

January 7, 2014

VIA FACSIMILE - 800-258-9081

Ms. Jamie Kerns
Liberty NW Ins. Corp.
2291 W. Broadway, Ste. 2
Missoula, MT 59808

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

Dear Ms. Kerns:

Please advise me of the status of receiving the computer search for *Schmill* claimants and the hand verification checking Mr. Jones indicated you were going to do in order to determine if the computer search parameters were accurately identifying *Schmill* claims.

Thank you for your immediate response to this request.

Sincerely,


LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Laurie Wallace

From: Larry Jones [lwjones@willslawpc.com]
Sent: Friday, May 08, 2015 9:50 AM
To: Laurie Wallace
Subject: RE: Schmill

Laurie,

I am afraid that my email did not accurately convey what I was trying to say. Liberty has not taken the position that working on the Schmill case is only a byproduct of working on Flynn-Miller. Liberty has been trying to identify the relevant insurers in the Flynn-Miller case and the methodology for identifying potential common fund cases. Much of this work should be helpful in the Schmill case. I believe it was more efficient for Liberty to focus on one case initially; therefore one case had to be chosen. The choice was not based on Liberty's belief that one case was more important than the other.

Liberty's plan is to present an implementation plan to Rex (which I hope will happen very soon) and then turn to the specifics of the Schmill common fund based on the work it has done in Flynn-Miller. Again, Liberty approach is not intended, and was never meant to apply, that Schmill is less important or needing less attention than the Schmill case. If my email left the opposite impression, I apologize.

I am leaving the office this morning and returning Tuesday, May 12th (grandson's birthday) and I would like to talk to you on my return to the office to answer any questions you may have and to give you an idea of what has been done in the Flynn-Miller case to try to explain what Liberty has been doing that should help move Schmill forward.

As always, I look forward to working with you on this case, a case both of us want to get resolved.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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From: Laurie Wallace [mailto:laurie@bothelauridsen.com]
Sent: Tuesday, April 21, 2015 10:06 AM
To: Larry Jones; 'Robin Stephens'
Subject: RE: Schmill

Larry,

Complying with the Schmill orders as a byproduct of looking for Flynn/Miller cases is not acceptable. Liberty is a named party in this case and has done practically nothing for the last three years to identify Schmill claimants and pay benefits that are due and owing. I have been more than patient in allowing Liberty time to develop a plan to identify claimants. Time is up. If I don't have Liberty's list of Schmill claimants within three weeks, I'll go back to the WCC for enforcement of the orders as well as a penalty and fees. Please call if you have any questions.



Laurie Wallace

Bothe & Lauridsen, P.C.

P.O. Box 2020

Columbia Falls, MT 59912

(406) 892-2193 Phone

(406) 892-0207 FAX

laurie@bothelauridsen.com

From: Larry Jones [<mailto:lwjones@willslawpc.com>]

Sent: Monday, April 20, 2015 2:02 PM

To: Robin Stephens

Cc: laurie@bothelauridsen.com

Subject: RE: Schmill

Robin,

This date I had an email exchange with out of state Liberty personnel about the other common fund case, Flynn/Miller. The work they are doing on that case should impact the identification of Schmill common fund cases. The plan is to identify Flynn/Miller cases and if that effort is successful, then it should be applicable to the Schmill cases. I will keep you posted.

Larry W. Jones

Wills Law Firm, p.c.

323 West Pine

Missoula, MT 59802

Phone: (406) 541-8560

Ext. 104

lwjones@willslawpc.com

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From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]

Sent: Thursday, April 9, 2015 2:20 PM

To: Larry Jones

Cc: laurie@bothelauridsen.com

Subject: FW: Schmill

Larry,

We have not yet received the information requested in regard to the common fund cases. Please provide us with the requested information as soon as possible so that we can proceed with this claim.

Robin Stephens, Secretary

Bothe & Lauridsen, PC

P.O. Box 2020

Columbia Falls, MT 59912

406-892-2193

406-892-0207 (fax)

Robin Stephens

From: Robin Stephens [b robin@bothelauridsen.com]
Sent: Thursday, April 09, 2015 2:20 PM
To: 'Larry Jones'
Cc: 'laurie@bothelauridsen.com'
Subject: FW: Schmill

Larry,

We have not yet received the information requested in regard to the common fund cases. Please provide us with the requested information as soon as possible so that we can proceed with this claim.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
b robin@bothelauridsen.com

From: Robin Stephens [<mailto:b robin@bothelauridsen.com>]
Sent: Wednesday, March 25, 2015 1:12 PM
To: 'Larry Jones'
Cc: 'laurie@bothelauridsen.com'
Subject: FW: Schmill

Larry,

In your e-mail below dated 2/28/15, you indicate that you would provide us with an update after you talked with the out-of-state person on the common fund cases. To date, we haven't received any further information from you.

Please advise us of the status of the common fund cases as soon as possible so that we can proceed with this matter.

Thank you for your prompt response to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
b robin@bothelauridsen.com

From: Laurie Wallace [<mailto:laurie@bothelauridsen.com>]
Sent: Monday, March 02, 2015 9:03 AM

To: Robin Stephens'
Subject: FW: Schmill

FYI.

From: Larry Jones [<mailto:lwjones@willslawpc.com>]
Sent: Saturday, February 28, 2015 2:47 PM
To: Laurie Wallace (laurie@bothelauridsen.com)
Subject: Schmill

Laurie,

I have been working with an out of state person on the common fund cases. By coincidence she and I are out of our offices until March 9th. I plan to talk with her then if possible after which I will give you an update. While out of the office I can be reached by cell at 406-728-1263 if you would like to discuss the case. Thanks.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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Robin Stephens

From: Robin Stephens [b~~l~~robin@bothelauridsen.com]
Sent: Friday, January 09, 2015 10:15 AM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

Please advise us of the status of receiving the information requested in regard to the *Schmill* claims.

Thank you for your prompt response to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Robin Stephens [mailto:blrobin@bothelauridsen.com]
Sent: Thursday, December 04, 2014 12:55 PM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

We have not yet received the information requested in regard to the *Schmill* claims as outlined in the e-mails below. Please let us know where you are at in obtaining this information as soon as possible.

Thank you for your prompt attention to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Robin Stephens [mailto:blrobin@bothelauridsen.com]
Sent: Friday, November 14, 2014 10:47 AM
To: 'Larry Jones'

Robin Stephens

From: Robin Stephens [blrobin@bothelauridsen.com]
Sent: Thursday, December 04, 2014 12:55 PM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

We have not yet received the information requested in regard to the *Schmill* claims as outlined in the e-mails below. Please let us know where you are at in obtaining this information as soon as possible.

Thank you for your prompt attention to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Robin Stephens [mailto:blrobin@bothelauridsen.com]
Sent: Friday, November 14, 2014 10:47 AM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

We have not yet received the information requested in regard the *Schmill* claims as outlined below. Please let me know where you are at in obtaining this information as soon as possible.

Thank you for your prompt attention to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Robin Stephens [mailto:blrobin@bothelauridsen.com]
Sent: Friday, October 31, 2014 9:06 AM
To: 'Larry Jones'

Robin Stephens

From: Robin Stephens [blrobin@bothelauridsen.com]
Sent: Friday, October 31, 2014 9:06 AM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: RE: Schmill

Larry,

The e-mail below is the last response we received from you concerning the implementation procedure and proposed changes in regard to the *Schmill* claims. Please provide us with the requested information as soon as possible.

Thank you.

Robin Stephens, Secretary
Bothie L. Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Larry Jones [mailto:lwjones@willslawpc.com]
Sent: Thursday, July 31, 2014 9:23 AM
To: Robin Stephens
Subject: RE: Schmill

I have had contact with out of state personnel and I will again have contact with the lead out of state person either tomorrow early next week.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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From: Robin Stephens [mailto:blrobin@bothelauridsen.com]
Sent: Wednesday, July 30, 2014 4:35 PM

Robin Stephens

From: Robin Stephens [b~~l~~robin@bothelauridsen.com]
Sent: Wednesday, October 15, 2014 12:43 PM
To: 'Larry Jones'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

We have not yet received the information concerning the implementation procedure and proposed changes in regard to the *Schmill* claims. Please let us know where you are at in obtaining this information as soon as possible.

Thank you for your response to this request.

Robin Stephens, Secretary
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Wednesday, October 01, 2014 10:27 AM
To: 'Larry Jones'
Subject: FW: Schmill

From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Wednesday, October 01, 2014 10:23 AM
To: 'Ljones (LarryW.Jones@llawoffice.com)'
Cc: 'Laurie Wallace'
Subject: Schmill

Larry,

Please advise us of the status of receiving the information concerning the implementation procedure and proposed changes in regard to the *Schmill* claims. In your last conversation with Laurie, you indicated you hoped to have something by the week of September 22, 2014.

Thank you for your response to this request.

Robin Stephens
Bothe & Lauridsen, PC
P.O. Box 2020

Robin Stephens

From: Larry Jones [lwjones@willslawpc.com]
Sent: Thursday, July 31, 2014 9:23 AM
To: Robin Stephens
Subject: RE: Schmill

I have had contact with out of state personnel and I will again have contact with the lead out of state person either tomorrow early next week.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
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Phone: (406) 541-8560
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lwjones@willslawpc.com

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From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Wednesday, July 30, 2014 4:35 PM
To: Larry Jones
Subject: FW: Schmill

From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Wednesday, July 30, 2014 12:34 PM
To: 'Ljones (LarryW.Jones@llawoffice.com)'
Subject: FW: Schmill

From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Wednesday, July 30, 2014 12:30 PM
To: 'Ljones (LarryW.Jones@llawoffice.com)'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Larry,

We have not yet received the information concerning the implementation procedure and proposed changes in regard to the *Schmill* claims. In your e-mail below dated July 3, 2014, you indicated you expected to discuss the case with the out-of-state personnel the week of July 7, 2014. Please advise us where you are at in obtaining the information needed in order to resolve these claims.

Robin Stephens

From: postmaster@willslawpc.com
Sent: Wednesday, July 30, 2014 4:35 PM
To: brobin@bothelauridsen.com
Subject: Delivered: FW: Schmill
Attachments: details.txt; ATT00040.txt

Your message has been delivered to the following recipients:

'Larry Jones' (lwjones@willslawpc.com)

Subject: FW: Schmill

Robin Stephens

From: Robin Stephens [bRobin@bothelauridsen.com]
Sent: Wednesday, July 30, 2014 12:30 PM
To: 'LJones (LarryW.Jones@llawoffice.com)'
Cc: 'Laurie Wallace'
Subject: FW: Schmill

Came back
undeliverable
541-8500 x104
called Larry
left msg

Larry,

We have not yet received the information concerning the implementation procedure and proposed changes in regard to the *Schmill* claims. In your e-mail below dated July 3, 2014, you indicated you expected to discuss the case with the out-of-state personnel the week of July 7, 2014. Please advise us where you are at in obtaining the information needed in order to resolve these claims.

Thank you for your response to this request.

Robin Stephens
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blRobin@bothelauridsen.com

From: Robin Stephens [<mailto:blRobin@bothelauridsen.com>]
Sent: Tuesday, July 15, 2014 4:40 PM
To: 'Larry Jones'
Cc: 'laurie@bothelauridsen.com'
Subject: RE: Schmill

Larry,

Please let me know when we can expect to receive the information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 in regard to the *Schmill* claims.

Thank you for your response to this request.

Robin Stephens
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blRobin@bothelauridsen.com

Robin Stephens

From: Robin Stephens [blrobin@bothelauridsen.com]
Sent: Tuesday, July 15, 2014 4:40 PM
To: 'Larry Jones'
Cc: 'laurie@bothelauridsen.com'
Subject: RE: Schmill

Larry,

Please let me know when we can expect to receive the information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 in regard to the Schmill claims.

Thank you for your response to this request.

Robin Stephens
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

From: Larry Jones [mailto:lwjones@willslawpc.com]
Sent: Thursday, July 03, 2014 11:58 AM
To: Robin Stephens
Cc: 'Laurie Wallace'
Subject: RE: Schmill

Robin and Laurie,

I have been in contact with out of state personnel regarding this case and I have requested a call from one of them for next week to discuss moving this case along. If you would like to discuss, please call at your convenience. Thanks.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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From: Robin Stephens [<mailto:blrobin@bothelauridsen.com>]
Sent: Monday, June 23, 2014 1:22 PM
To: Larry Jones
Cc: 'Laurie Wallace'
Subject: Schmill

Mr. Jones,

By e-mail dated June 6, 2014, you indicated you were going to request an update from the lead person working on the *Schmill* claims. To date, we have not received any further information in regard to this matter. Please advise us of the status of receiving information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 as soon as possible.

Thank you for your response to this request.

Robin Stephens
Bothe & Lauridsen, PC
P.O. Box 2020
Columbia Falls, MT 59912
406-892-2193
406-892-0207 (fax)
blrobin@bothelauridsen.com

Robin Stephens

From: Larry Jones [<mailto:lwjones@willslawpc.com>]
Sent: Tuesday, June 03, 2014 2:47 PM
To: Bothe.Lauridsen@optimum.net
Cc: Holt, Gary (GARY.HOLT@LibertyMutual.com)
Subject: Schmill

Laurie,

Thank you for your letters of 4/7/14 and 4/30/14. Claims has done some work in attempting to identify claims. I have sent this date an email to one of the lead persons asking for an update. Call if you would like to discuss.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

April 30, 2014

Mr. Larry Jones
WILLS LAW FIRM PC
323 West Pine
Missoula, MT 59802

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.

Dear Larry:

Please advise me of the status of receiving information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 in regard to the above-referenced matter.

Thank you for your prompt response to this request.

Sincerely,

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Bothe & Lauridsen, P.C.
Attorneys at Law

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

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: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

April 7, 2014

Mr. Larry Jones
WILLS LAW FIRM PC
323 West Pine
Missoula, MT 59802

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.

Dear Larry:

Please advise me of the status of receiving information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 in regard to the above-referenced matter.

Thank you for your prompt response to this request.

Sincerely,

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Laurie Wallace

From: Laurie Wallace [Bothe.Lauridsen@optimum.net]
Sent: Wednesday, March 19, 2014 4:32 PM
To: 'Larry Jones'
Subject: RE: Schmill

Larry,

I looked through the *Schmill* pleadings and couldn't find a settlement agreement with the SF. I don't remember signing such an agreement, but that doesn't mean I didn't. You may want to double check with Tom Martello or Brad Luck.

Laurie

From: Larry Jones [<mailto:lwjones@willslawpc.com>]
Sent: Monday, March 17, 2014 10:26 AM
To: Bothe.Lauridsen@optimum.net
Subject: Schmill

Laurie,

I have different persons working on this case now and a question has arisen. Did you sign a settlement agreement with the state fund? I look on the common fund website and could not find one. If you did, could you also send me a copy? Thanks.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104
lwjones@willslawpc.com

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Bothe & Lauridsen, P.C.
Attorneys at Law

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

*Schmill
Common
Fund*

KENNETH S. THOMAS
DAVID W. LAURIDSEN
LAURIE WALLACE
WEBSITE: www.bothe-lauridsen.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

February 26, 2014

Mr. Larry Jones
WILLS LAW FIRM PC
323 West Pine
Missoula, MT 59802

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.

Dear Larry:

Please advise me of the status of receiving information concerning the implementation procedure and proposed changes to paragraphs 3 and 17 in regard to the above-referenced matter.

Thank you for your prompt response to this request.

Sincerely,

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs

Robin Stephens

Schmill
-Flammen
Fund

From: Larry Jones [<mailto:lwjones@willslawpc.com>]
Sent: Thursday, February 13, 2014 2:43 PM
To: Bothe.Lauridsen@optimum.net
Cc: Holt, Gary (GARY.HOLT@LibertyMutual.com)
Subject: Schmill

Laurie,

Regarding your letter to me of February 10, 2014, as we discussed when we last spoke on the phone, Jaimie is no longer adjusting Schmill. Gary Holt has taken over that responsibility. I have this date sent him the November 19, 2013 email from me to you outlining an implementation procedure and my email to Jaimie discussing your proposed changes to paragraphs 3 and 17. I have asked him to contact me to discuss your proposal.

Larry W. Jones

Wills Law Firm, p.c.
323 West Pine
Missoula, MT 59802
Phone: (406) 541-8560
Ext. 104

lwjones@willslawpc.com

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Bothe & Lauridsen, P.C.
Attorneys at Law

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

KENNETH S. THOMAS
DAVID W. LAURIDSEN
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WEBSITE: www.bothe-lauridsen.com

(406) 892-2193
1 (800) 354-3262
Fax (406) 892-0207
E-MAIL: Bothe.Lauridsen@optimum.net

JOHN H. BOTHE
(1951-1996)

February 10, 2014

Mr. Larry Jones
WILLS LAW FIRM PC
323 West Pine
Missoula, MT 59802

RE: SCHMILL v. LIBERTY NW INS. CORP., et al.

Dear Larry:

It was my understanding from our conversation of December 11, 2013, that Jamie Kerns would contact me regarding items nos. 3 and 17 of your e-mail dated November 19, 2013. As of the date of this letter, I have not heard from Ms. Kerns. Please have Jamie contact me immediately so that we can keep this matter moving forward.

Thank you for your prompt attention to this request.

Sincerely,

LAURIE WALLACE
BOTHE & LAURIDSEN, P.C.

LW/rs