

Brendon J. Rohan, Esq.
 POORE, ROTH & ROBINSON, P.C.
 1341 Harrison Avenue
 Butte, MT 59701
 (406) 497-1200
 (406) 782-0043 (Fax)

FILED

SEP 14 2015

OFFICE OF
 WORKERS' COMPENSATION JUDGE
 HELENA, MONTANA

Attorneys for ACE Fire Underwriters Insurance
 Company, Century Indemnity Company, Indemnity
 Insurance Company of North America, ACE
 American Reinsurance Company, ACE Indemnity
 Insurance Company, Pacific Employers Insurance
 Company, Bankers Standard Fire & Marine, ACE
 American Insurance Company, and Bankers
 Standard Insurance Company

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

**AFFIDAVIT OF RICHARD B.
 RAUP**

1. **AFFIDAVIT OF RICHARD B. RAUP**

DOCKET ITEM NO. 630

STATE OF DELAWARE)
)
) : ss.
County of New Castle)

Richard B. Raup, being first duly sworn, states that I have personal knowledge of the following facts:

1. I am Vice President, Vendor Management Claims for ACE Group.
2. I am authorized to make the statements set forth in this affidavit on behalf of ACE Fire Underwriters Insurance Company, Century Indemnity Company, Indemnity Insurance Company of North America, ACE Indemnity Insurance Company, Pacific Employers Insurance Company, Bankers Standard Fire & Marine, ACE American Insurance Company, and Bankers Standard Insurance Company (collectively the "Insurers") and to bind the Insurers by these statements.

3. A review of applicable records relating to workers' compensation and occupational disease claims adjusted by third party administrators, other than ESIS, on behalf of the Insurers was undertaken to determine if there were any claimants meeting the court's criteria in this matter as set forth in the Summons. Based on that investigation and review, it was confirmed that there were no claimants meeting the court's criteria in this matter as set forth in the Summons subject to the clarification below.

4. The claim of Casey Jones v. Tate & Lyle, presented to ACE American Insurance Company (f/k/a CIGNA Insurance Company), with a date of injury of 05/01/1991 was settled through a lump sum settlement of \$40,000 on 02/24/1994. At the time of the settlement, Mr. Jones was represented by legal counsel. Because of the age of the claim, no hard copy documents relating to the claim and its settlement were retained.

2. **AFFIDAVIT OF RICHARD B. RAUP**

A copy of the settlement agreement approved by the Montana Employment Relations Division of the Department of Labor (Division) could not be located. Contact with the Division confirmed that it did not retain settlement agreements after 1991.

5. ACE does not have current contact information for Casey Jones other than his date of birth, 06/10/1958. The payment information retained in the electronic file shows a dual payee, indicating Mr. Jones was represented by an attorney. The identity of the attorney, though, was not available.

6. Based on standard business practice and procedure at the time the Casey Jones claim was settled, ACE would not have authorized payment of the settlement amount without obtaining a fully executed settlement agreement approved by the Division. Based on standard business practice and procedure, ACE believes that the Casey Jones settlement was approved by the Division.

7. I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which counsel for Petitioner may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of the Insurers. After such 90 days, if no objection is lodged by counsel for Petitioner, the Court will dismiss the Insurers from this action based on the sworn statements made by me in this affidavit.

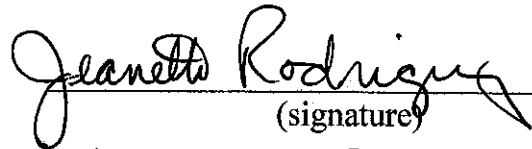
I declare under penalty of perjury that the foregoing is correct.

DATED this 2nd day of September, 2015.



RICHARD B. RAUP

Subscribed and sworn to before me this 2nd day of September, 2015.



(signature)

Jeanette Rodriguez

(print name)

Notary Public for the State of Delaware

Residing at _____

My Commission Expires: 2/18/2019

JANETTE RODRIGUEZ

Notary Public

STATE OF DELAWARE

, Commission Expires 02-18-2019

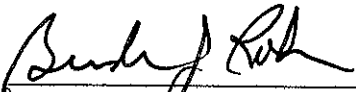
CERTIFICATE OF SERVICE BY MAILING

This is to certify that on the 10th day of September, 2015, the foregoing attached AFFIDAVIT OF RICHARD B. RAUP was duly served upon the following attorneys of record by depositing a true copy thereof in the United States mails, postpaid, addressed as follows, to-wit:

Laurie Wallace, Esq.
Bothe & Lauridsen, P.C.
P.O. Box 2020
Columbia Falls, Montana 59912

Attorneys for Petitioner

POORE, ROTH & ROBINSON, P.C.

By 
Brendon J. Rohan