

FILED

JUN 21 2016

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

<p>CASSANDRA SCHMILL, vs. LIBERTY NORTHWEST INSURANCE CORPORATION, vs. MONTANA STATE FUND,</p> <p>Petitioner, Respondent/Insurer, Intervenor.</p>	<p>WCC No. 2001-0300</p> <p>RESPONSE TO PETITIONER'S MOTION FOR ORDER TO SHOW CAUSE</p>
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Comes now ASARCO, Inc., Benefis Health Care, Continental Casualty Co., F.H. Stoltze Land & Lumber Co., Golden Sunlight Mines, Inc. Northwest Healthcare Corp., Northwestern Energy, Plum Creek Mgmt. Co., LP, Plum Creek Timber Co. Inc. Plum Creek Timber Co. LP, Rosauers' Supermarket Inc., Safeway, Inc. and Safeway Stores, Inc. (hereafter "Respondents") and respond to Petitioner's Motion for Order to Show Cause as follows:

DISCUSSION

Respondents have no objection to filing a report with the court regarding whether they should file an answer or complete an affidavit showing they should be dismissed from this case. If the Court orders Respondents to do that, Respondents will most certainly comply. As set forth below, however, at least some Respondents are in need of a period of approximately 60-90 days within which to file answers or complete affidavits. There are circumstances which served to justify this request. As stated below, many of the Respondents have changed adjusting firms and moved to new adjusters within the same adjusting firms. Many have not completed or finished their search for identifying whether there are claims included within the class that are subject to the common fund lien.

While it is Respondents understanding that Petitioner's Motion can be denied for the failure to file a brief of affidavit with the Motion in accordance with the Rules of this Court,

E-6-21-16

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Respondents do not necessarily wish that relief at this time. Respondents would rather ask for a period of 60-90 days to allow them to file responsive documents with the Court. (The undersigned has not had an opportunity to talk with counsel for Petitioner, but it is the undersigned's belief that Petitioner and Respondents' counsel can come to an agreement or understanding that answers or affidavits can be filed within 60 to 90 days).

Respondents would offer the following in support of the Court allowing them a period of 60-90 days within which to file answers or complete affidavits.

Northwest Healthcare. Northwest Healthcare is not in need of an additional period of time within which to file an affidavit or answer. The adjuster for Northwest Healthcare Corp. is prepared to file an affidavit with the Court by June 25, 2016, and that affidavit will be filed as soon as it is received.

ASARCO. The undersigned will be withdrawing as counsel for ASARCO, or in the alternative, ASARCO will be obtaining a new attorney to represent it in this action. Quinlan O'Connor, Agency Counsel at the Montana Department of Labor and Industry, has advised he will be filing a notice of substitute representation undertaking the defense of ASARCO in this action.

Plum Creek Mgmt. Co., LP, Plum Creek Timber Co. Inc. Plum Creek Timber Co. LP (hereafter "Plum Creek). Plum Creek is in the process of changing adjusters. Plum Creek was recently sold this year to Weyerhaeuser. ESIS is currently the adjuster for the Plum Creek entities, and Sedgwick will become the new adjuster on July 1, 2016. In view of the transition and change of adjusters, Plum Creek and the new adjusting firm are in need of a period of time of at least 90 days within which to file an answer or affidavit in this matter.

Safeway, Inc. and Safeway Stores, Inc. The adjuster for these entities has changed in February of this year. Safeway was being adjusted by Intermountain Claims and Safeway claims area now being adjusted by Sedgwick. In view of the transition and change of adjusters, Safeway and Sedgwick are in need of a period of time of at least 90 days within which to file an answer or affidavit in this matter.

Benefis Health Care. These claims are being adjusted by Brentwood. Due to some restructuring and realigning at Brentwood, Brentwood and Benefis are in need of a period of approximately 60 to 90 days within which to file an answer or affidavit.

Continental Casualty Co. and Transportation Insurance Company. These employer/insurers changed adjusters from Crawford and Company to Gallagher Bassett within the last two years. These matters were being handled by a separate adjuster at Crawford and Company, and the assignment was not completed, and the files were not transferred when the shift to a new adjusting firm was made. Continental Casualty and Gallagher Bassett are in need of a period of time of at least 90 days within which to file an answer or affidavit in this matter.

The undersigned has not heard from the rest of Respondents or their adjusters, F.H. Stoltze Land & Lumber Co., Golden Sunlight Mines, Inc., Northwestern Energy, and Rosauers' Supermarket Inc. However, the undersigned expect to hear from these parties shortly and can

advise the Court whether additional time is needed or responsive documents can be filed with the Court.

Dated this 21st day of June, 2016.

HAMMER, QUINN & SNAW, PLLC

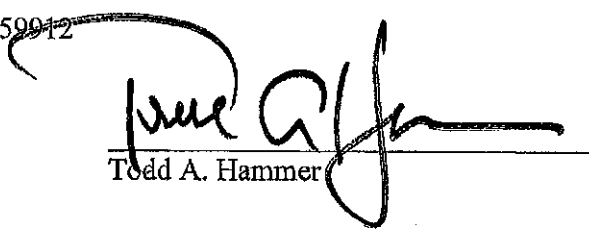
By: 

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CERTIFICATE OF SERVICE

I do hereby certify that on the 21st day of June, 2016, I served a copy of the foregoing in the above matter by mailing a copy thereof, first class postage prepaid to:

Laurie Wallace
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