

Larry W. Jones
Law Office of Jones & Garber
An Insurance Company Law Division
700 SW Higgins Avenue, Suite 108
Missoula, MT 59803-1489
(406) 543-2420
(406) 829-3436 (FAX)
Attorney for Respondent/Insurer Liberty Northwest Ins. Corp.

FILED

JAN 26 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ALEXIS RAUSCH, et al.)	
)	
Petitioners,)	WCC No. 9907-8274R1
)	
vs.)	
)	LIBERTY NORTHWEST
MONTANA STATE FUND,)	RESPONSE TO SUMMONS
)	
Respondent/Insurer,)	
)	
and)	
)	
JEREMY RUHD,)	
)	
Petitioner,)	
)	
vs.)	
)	
LIBERTY NORTHWEST INSURANCE CORP.,)	
)	
Respondent/Insurer.)	

Comes now Liberty Northwest and responds to the Court's summons in this matter as follows:

In the certificate of service Liberty Northwest Insurance Corporation is listed. Liberty Northwest has already made an appearance. Also during a recent hearing Judge McCarter ruled Liberty could respond in behalf of Liberty Northwest by referencing my letter to the Court dated November 23, 2004, which is attached.

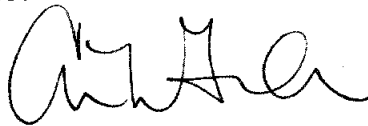
The undersigned is also requesting I be served with courtesy copies of any documents directed at the following insurers:

Liberty Insurance Corporation

Liberty Mutual Fire Insurance Company
Liberty Mutual Insurance Corporation
Wausau Underwriters Insurance Company

In Liberty's letter dated November 23, 2004, it set forth its concerns about the amount of information Liberty would be asked to gather and proposed using the method the Court adopted in Cheetham v. LNW for identifying common fund cases after all of the implementation issues have been resolved.

DATED this 25th day of January, 2005.

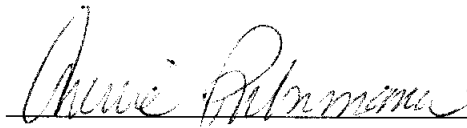


Larry W. Jones
Attorney for Respondent/Insurer

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2005, I served the original of the foregoing LIBERTY NORTHWEST RESPONSE TO SUMMONS, first-class mail, postage prepaid, on the following:

Ms. Patricia J. Kessner
Clerk of Court
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624-0537



L. J. GARBER OFFICE OF JONES & GARBER

An Insurance Company Law Division

700 SW HIGGINS AVENUE, SUITE 108 • MISSOULA, MT 59803-1489

TELEPHONE 406-543-2433 • FACSIMILE 406-829-3436

Larry W. Jones
406-543-2433
Larry.Jones@llawoffice.com

Carrie L. Garber
406-543-2434
Carrie.Garber@llawoffice.com

November 23, 2004

Via Fax to (406) 444-7798 and U.S. Mail

Honorable Mike McCarter
Workers' Compensation Court
P. O. Box 537
Helena, MT 59624

RE: Rausch, et al. v. Montana State Fund
Ruhd v. Liberty Northwest Insurance Corporation
WCC No. 9907-8274R1

Dear Judge McCarter:

Thank you for your letter of November 17, 2004, attached to which was a draft Summons.

In your letter you invited further comment and suggestions. As I hope you will remember in the Cheetham v. LNW case you issued a confidentiality/protective order that allowed Dave Lauridsen to review the files Liberty identified that could have fallen under his common fund attorney fee claim. Dave then reviewed those files and the matter was resolved.

I was hoping the same procedure could be followed in this case, after all implementation issues have been resolved, by providing the common fund attorneys with the PTD claims that have been identified by Liberty and ERD searches after which they could go through the hard copy files to develop much if not all of the other information outlined in ¶¶1-9 of your Summons.

A major benefit of this procedure is that it allows the common fund attorneys to satisfy themselves about the key facts that may give rise to an entitlement to common fund attorney fees. If the insurer is required to go through all of these files and provide the information set forth in your Summons, then the common fund attorneys may want to duplicate exactly the same effort.

Also I believe as a matter of equity the common fund attorneys who are claiming the fee should do the work for which they are being compensated by the common fund attorney fees.

As I am sure you know from your extensive involvement in other common fund cases, the work that may be required can be extensive both in time and resources.

TRANSMITTED TO
CLAIMS DEPT.

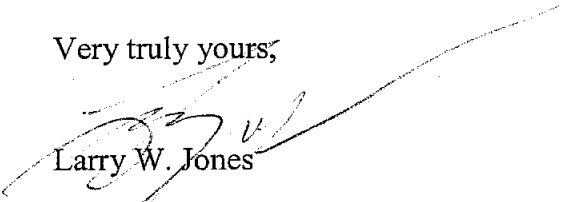
11-23-04

COPY

Therefore I request that the Summons simply be to require the insurers to appear and participate in the common fund proceeding. As I hope you will remember in Dave's case, the method that was followed was both expeditious and resulted in absolutely no disagreements as to what cases fell under the common fund claim or the disposition of those cases.

Thank you for your invitation to comment. By a copy of this letter to all attorneys to whom your letter was sent I am notifying them of this communication with you and Liberty's request.

Very truly yours,



Larry W. Jones

LWJ/ap

c: Lon Dale
Stephen Roberts
Greg Overturf
Thomas Harrington
Mark Cadwallader
Monte Beck
Geoffrey Angel
Bradley Luck
Carrie Garber
Victor Halverson
Rex Palmer
Dianna Ferriter
Carol Glead