

Oliver H. Goe  
Browning, Kaleczyc, Berry & Hoven, P.C.  
P.O. Box 1697  
Helena, MT 59624-1697  
Phone: (406) 443-6820

**FILED**

JAN 20 2006

Attorneys for Protective Insurance Company  
and Sagamore Insurance Company

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

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CASSANDRA SCHMILL,	)	
	)	WCC NO. 2001-0300
Petitioner,	)	
	)	
vs.	)	
	)	<b>MOTION TO DISMISS</b>
	)	<b>PROTECTIVE INSURANCE</b>
LIBERTY NORTHWEST INSURANCE	)	<b>COMPANY AND SAGAMORE</b>
CORPORATION,	)	<b>INSURANCE COMPANY</b>
	)	
Respondent/Insurer.	)	
	)	
MONTANA STATE FUND,	)	
	)	
Intervenor.	)	

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Protective Insurance Company, through its attorney of record Oliver H. Goe, hereby requests that it be dismissed from these proceedings. As reflected in the Affidavit of Mr. Greg Morfas, Protective Insurance Company has reviewed its claim files and has no claimants meeting the court's criteria in this matter as set forth in the Summons.

Sagamore Insurance Company also moves for dismissal on the grounds and for the reasons that Sagamore Insurance Company has never written Workers' Compensation insurance in the State of Montana.

This Motion is supported by the Affidavits of Greg Morfas, General Counsel for Protective Insurance Company and Sagamore Insurance Company. Mr. Morfas' Affidavits are filed simultaneously herewith.

DATED this 19 day of January, 2006.

BY: 

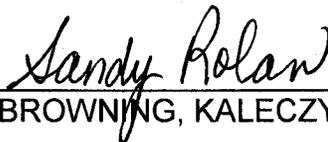
Oliver H Goe

Attorneys for Respondent/Insurer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19<sup>th</sup> day of January, 2006, a true and correct copy of the foregoing was deposited in the United States mail, postage prepaid, and addressed as follows:

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



BROWNING, KALECZYC, BERRY & HOVEN, P.C.



- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- Protective Insurance Company (NAME OF INSURER OR SELF-INSURER) has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) was or is in liquidation during the period in question set forth in the amended summons served upon me.

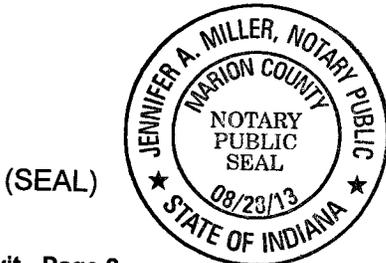
¶5 I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which counsel for Petitioner[s] may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of Protective Insurance Company (NAME OF INSURER OR SELF-INSURER). After such 90 days, if no objection is lodged by counsel for Petitioner[s], the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

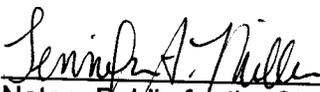
¶6 I declare under penalty of perjury that the foregoing is correct.

DATED this 13<sup>th</sup> day of January, 2006.

  
 \_\_\_\_\_ (Name)  
 General Counsel  
 \_\_\_\_\_ (Title)

Signed and sworn to before me this 13<sup>th</sup> day of January, 2006.



  
 Notary Public for the State of Indiana  
 Residing at: 3060 Walden Pl. Carmel, IN 46033  
 My Commission Expires: 08/28/13

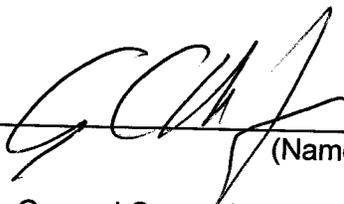


- Sagamore Insurance Company (**NAME OF INSURER OR SELF-INSURER**) has never written workers' compensation insurance in the state of Montana;
- \_\_\_\_\_ (**NAME OF INSURER OR SELF-INSURER**) does not have any Montana claims;
- \_\_\_\_\_ (**NAME OF INSURER OR SELF-INSURER**) has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- \_\_\_\_\_ (**NAME OF INSURER OR SELF-INSURER**) was or is in liquidation during the period in question set forth in the amended summons served upon me.

¶5 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[s] may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of Sagamore Insurance Company (**NAME OF INSURER OR SELF-INSURER**). After such 90 days, if no objection is lodged by counsel for Petitioner[s], the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

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

DATED this 13<sup>th</sup> day of January, 2006.

  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_  
 General Counsel  
 \_\_\_\_\_ (Title)

Signed and sworn to before me this 13<sup>th</sup> day of January, 2006.



(SEAL)

Jennifer A. Miller  
 Notary Public for the State of Indiana  
 Residing at: 3660 Walden Place Carmel, IN 46033  
 My Commission Expires: 08/28/13

G. ANDREW ADAMEK  
CHAD E. ADAMS  
DANIEL J. AUERBACH  
KIMBERLY A. BEATTY  
SARA S. BERG  
LEO BERRY  
BRAND C. BOYAR  
MARK D. ETCHART  
PATRICK T. FOX  
OLIVER H. GOE  
AIMEE GRMOLJEZ  
J. DANIEL HOVEN



BROWNING, KALECZYC,  
BERRY AND HOVEN, P.C.  
ATTORNEYS AT LAW

STANLEY T. KALECZYC  
KATI G. KINTLI  
CATHERINE A. LAUGHNER  
DAVID M. MCLEAN  
CRAIG M. MUNGAS  
MARK R. TAYLOR  
W. JOHN TIETZ  
TREVOR L. UFFELMAN  
STEVEN T. WADE  
LEO S. WARD  
RYAN C. WILLMORE

Mailing Address  
POST OFFICE BOX 1697  
HELENA, MONTANA 59624  
TELEPHONE (406) 443-6820  
bkbh@bkbh.com

Street Address  
139 NORTH LAST CHANCE GULCH  
HELENA, MONTANA 59601  
TELEFAX (406) 443-6883  
www.bkbh.com

ED BARTLETT: Of Counsel  
R. STEPHEN BROWNING: Retired

January 19, 2006

Patricia Kessner  
Workers' Compensation Court  
P.O. Box 537  
Helena, MT 59624

*Hand-Delivered*

RE: Schmill, Cassandra  
Cause No. WCC No. 2001-0300

Dear Ms. Kessner:

Enclosed for filing in the above-referenced matter please find the original and one copy of Respondent/Insurer's **Motion to Dismiss Protective Insurance Company and Sagamore Insurance Company**. Please advise me of the filing of this document by date-stamping the attached copy and returning it with our staff courier.

Should you have any questions regarding this filing, please do not hesitate to contact me. Thank you for your assistance.

Sincerely,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By Sandy  
Sandra H. Rolan  
Legal Secretary to Oliver S. Goe

Enclosures



Browning, Kaleczyc, Berry & Hoven, P.C. is a member of MSI, a network of Independent Professional Firms