# IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

### WCC No. 2001-0300

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#### CASSANDRA SCHMILL

JAN 2 6 2006

**Petitioner** 

SAN 2 0 LOGO

vs.

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

## LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

## **MONTANTA STATE FUND**

Intervenor.

## **AFFIDAVIT**

STATE OF MISSOURI	)
	: ss.
County of St. Louis	)

- ¶ 1 I, **LEO WINSTEAD**, being first duly sworn upon oath, depose and say:
- ¶2 I, LEO WINSTEAD am a VICE PRESIDENT of MIDWEST EMPLOYERS CASUALTY COMPANY.
- ¶3 In my capacity as VICE PRESIDENT OF CLAIMS of MIDWEST EMPLOYERS CASUALTY COMPANY, I am authorized to make the statements set forth in this affidavit on behalf of MIDWEST EMPLOYERS CASUALTY COMPANY and to bind MIDWEST EMPLOYERS CASUALTY COMPANY by these statements.
- ¶4 After a review of our records, I swear under oath that **MIDWEST EMPLOYERS CASUALTY COMPANY** should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

		<b>EMPLOYERS</b>
CASUALTY COMPANY has neve insurance in the state of Montana;	r written workers'	compensation
	MIDWEST	<b>EMPLOYERS</b>
CASUALTY COMPANY does not h	nave any Montana	a claims;
	MIDWEST	<b>EMPLOYERS</b>
CASUALTY COMPANY has no criteria in this matter as set forth in		ng the Court's
	MIDWEST	<b>EMPLOYERS</b>
CASUALTY COMPANY was or is question set forth in the amended s	in liquidation durir summons served (	ng the period in upon me.

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 Petitioner's counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of **MIDWEST EMPLOYERS CASUALTY COMPANY**. After such 90 days, if no objection is lodged by the Petitioner's counsel, 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 \_\_\_\_\_\_\_ day of January, 2006.

Leo Winstead, VP—Claims

Signed and sworn to before me this  $16^{\frac{1}{4}}$  day of January, 2006.

Lela I Plansard
Notary Public for the State of Missouri

Residing at: St. Charles County
My Commission Expires: December 7, 2008

PLOUSS

OTAP

P(SEAL)

PIGENEL

NOTARY

PARTIES OF MISSOURI
ST. CHARLES COUNTY

OMMISSION EXPIRES DEC. 7, 2008

LAW OFFICES OF

### POORE, ROTH & ROBINSON, P.C.

A PROFESSIONAL CORPORATION

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January 25, 2006

RONALD A. THUESEN CHARLES K. SMITH MATTHEW D. NEILL

OF COUNSEL ROBERT A. POORE URBAN L. ROTH

JAMES A. POORE, JR. (1916-2002)

Ms. Patricia J. Kessner Clerk of Court Workers' Compensation Court 1625 11th Avenue P.O. Box 537 Helena, Montana 59624

Re: Cassandra Schmill v. Liberty Northwest Insurance Corporation and

Montana State Fund WCC No. 2001-0300

## Dear Ms. Kessner:

DONALD C. ROBINSON

J. RICHARD ORIZOTTI

BRENDON J. ROHAN JOHN P. DAVIS

THOMAS M. WELSCH

TINA L. MORIN LEE BRUNER

LISA A. LEVERT

PATRICK M. SULLIVAN

ROBERT C. BROWN

Enclosed for filing in the above-captioned matter are the original and one copy of the following:

- 1. Affidavit of Leo Winstead on behalf of Midwest Employers Casualty Company;
  - 2. Affidavit of Carol J. Lapunzina on behalf of Starnet InsuranceCompany;
- 3. Affidavit of John F. Thelen on behalf of Continental Western Insurance Company;
  - 4. Affidavit of John F. Thelen on behalf of Berkley Regional Company; and
  - 5. Affidavit of John F. Thelen on behalf of Union Insurance Company.

Ms. Patricia J. Kessner January 25, 2006
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Please acknowledge receipt and filing date of the same by returning conformed copies in the stamped, pre-addressed envelope enclosed for your convenience.

Thank you.

Very truly yours,

POORE, ROTH & ROBINSON, P.C.

By

Thomas M. Welsch

TMW:ct Enclosures

cc: Laurie Wallace, Esq.