IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL

Petitioner

vs.

FILED

LIBERTY NORTHWEST INSURANCE CORPORATIONOCT - 2 2006

Respondent/Insurer

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

MONTANA STATE FUND

Intervenor

AFFIDAVIT

STATE OF CONNECTICUT) : ss. County of Fairfield)

- 1. I, Donald L. Smith, being first duly sworn upon oath, depose and say:
- 2. I, Donald L. Smith, am the General Counsel of Odyssey America Reinsurance Corporation ("OARC").
- 3. In my capacity as General Counsel of OARC, I am authorized to make the statements set forth in this affidavit on behalf of OARC and to bind OARC by these statements.
- 4. After a review of our records, I swear under oath that OARC should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):
 - OARC has never written workers' compensation insurance in the state of Montana;
 - OARC does not have any Montana claims;
 - OARC has no claimants meeting the Court's criteria in this matter as set forth in the summons;
 - OARC 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 Petitioner's counsel may conduct discovery and investigation for the limited purpose of providing or disproving the foregoing statement(s) made by me on behalf of OARC. 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 26 day of September, 2006.

Donald L. Smith General Counsel

Odyssey America Reinsurance Corporation

Corinne Brennan

Notary Public for the State of Connecticut

Residing at: 114 Woodside Green, Stamford, CT 06905

My Commission Expires: February 28, 2010

(SEAL)