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Attorneys for Golden Sunlight Mines

**FILED**

FEB 14 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

**ALEXIS RAUSCH et. al.,**

Petitioners,

vs.

**MONTANA STATE FUND.**

Respondent/Insurer,

and

**JEREMY RUHD,**

Petitioner,

vs.

**LIBERTY NORTHWEST INSURANCE  
CORPORATION,**

Respondent/Insurer.

WCC NO. 9907-8274R1

**RESPONSE OF GOLDEN SUNLIGHT  
MINES TO SUMMONS DATED  
JANUARY 10, 2005 INCLUDING  
OBJECTIONS TO SUMMONS AND  
MOTION TO QUASH SUMMONS**

The above reasons are more particularly set forth in the accompanying brief which is incorporated by reference.

2. **RESPONSE:** Subject to the foregoing objections and Golden Sunlight's Motion to Quash Summons, and without waiving its objections or Motion to Quash, Golden Sunlight states that it is currently unable to produce the information requested by this Court for the reasons set forth in the Affidavit of Rick Davenport, which is attached as Exhibit A and by this reference incorporated herein.

**WHEREFORE,** Golden Sunlight respectfully requests the following relief:

1. That the Court grant Golden Sunlight's Motion to Quash Summons, and order that Golden Sunlight is not required to answer or further respond to said Summons; or
2. Alternatively, if required to answer said summons, that Golden Sunlight be granted until April 30, 2005 within which to provide the information requested.

**DATED** this 10<sup>th</sup> day of February, 2005.

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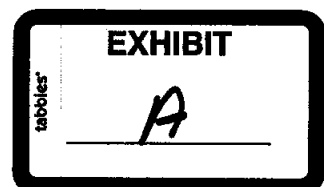
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WCC NO. 9907-8274R1

**AFFIDAVIT OF  
RICK DAVENPORT**



STATE OF MONTANA                    )  
  : ss  
County of Flathead                    )

I, Rick Davenport, being first duly sworn upon oath, depose and say:

1. I work as a workers' compensation adjuster for Putman & Associates, Inc., a licensed third-party administrator of workers compensation claims in the State of Montana.
  
2. Putman & Associates has been a licensed third-party administrator since at least 1990. I have adjusting workers' compensation claims in Montana since June of 1995, but have been adjusting workers compensation claims in other states since 1977. I am making this affidavit on behalf of Golden Sunlight Mines (hereinafter "Golden Sunlight") and in response to the Summons issued by the Court on January 10, 2005.
  
3. Since 1999, we have adjusted claims for Golden Sunlight, one of the Insurers or Self-Insureds to which the Summons dated January 10, 2005 was directed by this Court. As an adjuster for Golden Sunlight, I have personal knowledge of the type of information maintained by Golden Sunlight in regard to claims involving (a) claimants injured or suffering occupational diseases since June 20, 1991 to whom PTD benefits were paid, and (b) claimants injured or suffering occupational diseases since June 20, 1991 to whom TTD benefits were paid. I also have knowledge of the efforts which would be required to comply with or respond to the Summons, and I make this affidavit based upon my personal knowledge of such claims.
  
4. Golden Sunlight is unable to provide the requested information to the Court by the deadline of February 14, 2005 because of the following reasons:
  - A. A computer inspection of the files and records will not provide the Court with the information that has been requested.
  
  - B. A physical inspection of the files and records is necessary to gather the information, particularly the information requested in subparagraphs 3, 4, 5, 6, 7 and 8 of paragraph 4 of the Court's Summons.

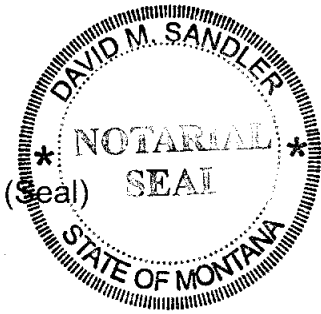
- C. With respect to the information sought in paragraph 4 of the Summons, Golden Sunlight and I estimate that there are approximately 9 files that will need to be physically examined for claimants injured or suffering occupational disease since 1999 to whom PTD and/or TTD benefits may have been paid. We have the files from Golden Sunlight from 1991 to 1999 in storage in Missoula. At this time, I do not know how many of those files fit the criteria in paragraphs 1, 2, 3, and 4 of the Summons. I, or another adjuster, will have to physically examine each of those files to determine whether they contain information requested in paragraph 4 of the Court's Summons.
- D. A physical inspection or examination of these files cannot be accomplished by February 14, 2005, particularly since Putman & Associates also adjusts claims for several other of the insurers and self-insureds named in the Summons. In addition to our regular adjusting duties, I estimate that either myself or other adjusters at Putman & Associates will have to physically examine more than 1,000 files to comply with the Summons.
- E. Golden Sunlight and I reasonably estimate that the physical inspection of the files necessary to comply with the Summons could not be completed until April 30, 2005.

DATED this \_\_\_ day of February, 2005.

  
RICK DAVENPORT

STATE OF MONTANA )  
 : ss  
County of Flathead )

This instrument was acknowledged before me on this 10th day of February, 2005, by Rick Davenport



David M. Sandler  
DAVID M. SANDLER

[Type, Stamp or Print Name]  
Notary Public for the State of Montana  
Residing at KALISPELL, Montana  
My commission expires OCTOBER 5, 2008.

DATED this 10th day of February, 2005.

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