

Donald F. Carey
Robert D. Williams
QUANE SMITH LLP
2325 West Broadway, Suite B
Idaho Falls, Idaho 83402-2948
Telephone: (208) 529-0000
Facsimile: (208) 529-0005
E-mail: dfcarey@quanessmith.net

Attorneys for Defendants Continental
Casualty Company and CNA Group
Life Assurance Company

ORIGINAL
U.S. DISTRICT COURT
U.S. BANKRUPTCY COURT
DISTRICT OF IDAHO

JAN - 6 2003

M. REC'D
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

CHRIS J. DENNISON,

Plaintiff,

vs.

CONTINENTAL CASUALTY COMPANY,
an Illinois corporation; CNA GROUP LIFE
ASSURANCE COMPANY, a wholly owned
subsidiary of Continental Casualty Company,
RURAL TELEPHONE COMPANY, an
Idaho Corporation,

Defendants.

Case No. CIV-02-507-S-LMB

DEFENDANT CNA'S MOTION
TO DISMISS AND MOTION
FOR BENCH TRIAL

COMES NOW, Defendant CNA, by and through their counsel of record, Quane Smith
LLP, and hereby moves this Court for an order dismissing Plaintiff's Complaint and as

alternative relief, for a bench trial. The basis of this motion is that Plaintiff's remedy is limited to those provided for in the Employee Retirement Income Security Act of 1974 (ERISA), in particular, 29 U.S.C. §1132(a)(1)(B). As Plaintiff's Complaint asserts causes of action that do not arise under the applicable ERISA provision, they are preempted pursuant to 29 U.S.C. §1144(a). As such, Plaintiff's Complaint fails to state a claim upon which relief can be granted, and should be dismissed pursuant to F.R.C.P. 12(b)(6). Alternatively, Plaintiff is not entitled to adjudication of any surviving claims by a jury, but rather, any remaining claims must be decided by the Court as that is the proper fact finder in deciding ERISA issues, not a jury.

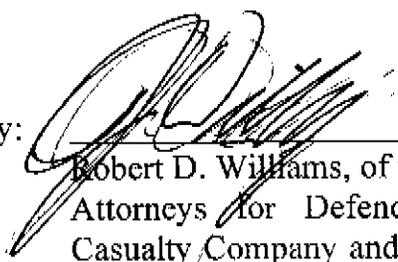
This motion is further supported by a Memorandum in Support, filed concurrently herewith.

WHEREFORE, Defendant CNA respectfully requests this Court grant their motion to dismiss Plaintiff's Complaint with prejudice, to order a bench trial on any surviving claims and for such further and additional relief as the Court deems appropriate under the circumstances.

ORAL ARGUMENT IS REQUESTED

RESPECTFULLY SUBMITTED this 3rd day of January, 2003.

QUANE SMITH LLP

By: 

Robert D. Williams, of the Firm
Attorneys for Defendants Continental
Casualty Company and CNA Life Assur-
ance Company

CERTIFICATE OF SERVICE

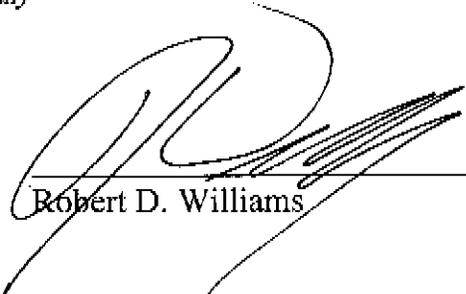
I HEREBY CERTIFY that on this 3rd day of January, 2003, I served a true and correct copy of the foregoing DEFENDANT CNA'S MOTION TO DISMISS AND MOTION FOR BENCH TRIAL by:

David E. Comstock, Esq.
COMSTOCK & BUSH
800 West Idaho, Suite 300
P.O. Box 2774
Boise, Idaho 83701

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile @ 208/344-7721

Robert A. Anderson, Esq.
Phillip J. Collaer, Esq.
ANDERSON, JULIAN & HULL, LLP
250 South Fifth Street, Suite 700
P.O. Box 7426
Boise, Idaho 83707-7426
Attorneys for Defendant Rural Telephone Company

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile @ 208/344-5510


Robert D. Williams

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