

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. \_\_\_\_\_

DANA ROLAN, on her own behalf and on )  
behalf of the class she represents, )

Plaintiffs/Appellees )

vs. )

NEW WEST HEALTH SERVICES, )  
DARWIN SELECT INSURANCE )  
COMPANY and ALLIED WORLD )  
ASSURANCE COMPANY and DARWIN )  
NATIONAL ASSURANCE COMPANY, )  
Defendants/Appellants )ALLIED WORLD ASSURANCE )  
COMPANY, )  
Counterclaimant/Appellant )

vs. )

DANA ROLAN, on her own behalf and on )  
behalf of the class she represents, )  
Counterdefendants/Appellees )-----  
**ALLIED WORLD ASSURANCE COMPANY'S NOTICE OF APPEAL**  
-----Appeal from the District Court of the First Judicial District  
of the State of Montana in and for Lewis & Clark County  
Cause No. CDV-2010-91  
The Honorable Kathy Seeley

## **Attorneys of Record**

Randall G. Nelson  
Thomas C. Bancroft  
NELSON LAW FIRM, P.C.  
2619 St. Johns Avenue, Suite E  
Billings, MT 59102  
(406) 867-7000

Martha Sheehy  
SHEEHY LAW FIRM  
P.O. Box 584  
Billings, MT 59103-0584  
(406) 252-2004

**Attorneys for Allied World Assurance Co.**

Erik B. Thueson  
THUESON LAW OFFICE  
P.O. Box 280  
Helena, MT 59624-0280  
(406) 449-8200

**Attorney for Plaintiff Dana Rolan and Class**

Robert Lukes  
GARLINGTON, LOHN & ROBINSON  
P.O. Box 7909  
Missoula, MT 59807-7909  
(406) 523-2500

Gary Zadick  
UGRIN ALEXANDER ZADICK, P.C.  
P.O. Box 1746  
Great Falls, MT 59403-1746  
(406) 771-0007

**Attorneys for New West Health Services**

NOTICE is hereby given that Allied World Assurance Company (“Allied World”), the Appellant in the above-named matter and the Defendant / Counterclaimant in that cause of action filed in the First Judicial District, Lewis & Clark County, as Cause No. CDV-2010-91, hereby appeals to the Supreme Court of the State of Montana based on Defendant New West Health Services’ (“New West’s”) from the following orders and rulings:

- a. The Order dated October 23, 2018 (Dkt. 230), insofar as that Order (1) denies Allied World’s motion for partial summary judgment on the \$1,000,000 “each claim” limit; and (2) grants Plaintiffs’ and New West’s cross-motions for partial summary judgment for estoppel regarding enforcement of the “each claim” limit. (Attached as Ex. 1).
- b. The Order dated April 19, 2019 (Dkt. 273), insofar as that Order denies Allied World’s motion for summary judgment regarding indemnification. (Attached as Ex. 2).

Allied World further certifies:

1. That this appeal is not subject to the mediation process required by M.R.App. P. 7., because this appeal does not involve workers’ compensation, domestic relations, and money judgments. This appeal arises from a claim against Allied World for declaratory judgment, and does not

fall within the scope of Rule 7.

2. That this is an appeal of orders certified as final on April 27, 2020 under M.R.Civ. P. 54(b). A copy of the order is attached as Ex. 3. This appeal is timely, with notice filed less than 30 days after entry of the Order.
3. That the transcript from the hearings on the two motions have been requested from the Court Reporter.
4. That included herewith is the filing fee prescribed by statute.
5. This Notice has been served upon the clerk of the district court and counsel for all parties.

DATED this 18<sup>th</sup> day of May, 2020.

SHEEHY LAW FIRM

BY /s/Martha Sheehy  
Martha Sheehy

P.O. Box 584  
Billings, MT 59103-0584

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 18, 2020, I filed a true and accurate copy of the foregoing NOTICE OF APPEAL with the Clerk of the Montana Supreme Court electronically; and that I have a true and accurate copy of the NOTICE OF APPEAL upon the Clerk of the District Court, by mail, at the address indicated below:

Angie Sparks  
Clerk of District Court  
228 Broadway, Room 104  
Helena MT 59601

I further certify that I served true and accurate copies of the foregoing brief and appendix on all parties to this action by electronic service. Each attorney of record is registered for electronic service through the Court's eService process.

/s/Martha Sheehy

Martha Sheehy

## **CERTIFICATE OF SERVICE**

I, Martha Sheehy, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Appeal to the following on 05-18-2020:

Randall George Nelson (Attorney)  
2619 St. Johns Ave., Suite E  
Billings MT 59102  
Representing: Allied World Assurance Company  
Service Method: eService

Erik B. Thueson (Attorney)  
P.O. Box 280  
213 Fifth Avenue  
Helena MT 59624  
Representing: Dana Rolan  
Service Method: eService

Gary M. Zadick (Attorney)  
P.O. Box 1746  
#2 Railroad Square, Suite B  
Great Falls MT 59403  
Representing: New West Health Services  
Service Method: eService

Robert C. Lukes (Attorney)  
Garlington, Lohn & Robinson, PLLP  
P.O. Box 7909  
Missoula MT 59807  
Representing: New West Health Services  
Service Method: eService

Electronically Signed By: Martha Sheehy  
Dated: 05-18-2020