

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222

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ROBERT FLYNN AND CAROL MILLER, INDIVIDUALLY AND ON BEHALF OF  
OTHERS SIMILARLY SITUATED

Petitioner

**FILED**

vs.

JAN 30 2006

MONTANTA STATE FUND

Respondent/Insurer

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

and

LIBERTY NORTHWEST INSURANCE CORPORATION

Intervenor.

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**AFFIDAVIT**

STATE OF IOWA    )  
                          : ss.  
County of Polk    )

¶ 1 I, **JOHN F. THELEN**, being first duly sworn upon oath, depose and say:

¶ 2 I, **JOHN F. THELEN**, was the **SECRETARY** of **AMERICAN WEST INSURANCE COMPANY**.

¶ 3 In my capacity as **SECRETARY** of Tri-State Insurance Company of Minnesota, I am authorized to make the statements set forth in this affidavit on behalf of **AMERICAN WEST INSURANCE COMPANY** via a Purchase Agreement between American West Insurance Company and Tri-State Insurance Company whereby Tri-State Insurance Company of Minnesota assumed all the business of American West Insurance Company and is the successor-in-interest to American West Insurance Company for all insurance policies issued in the State of Montana prior to the sale of American West.

DOCKET ITEM NO. 448

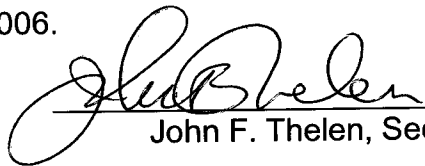
¶4 After a review of our records, I swear under oath that **AMERICAN WEST INSURANCE COMPANY** should be dismissed from the above- entitled action for any or all of the following reasons (check any or all that apply):

- AMERICAN WEST INSURANCE COMPANY** has never written workers' compensation insurance in the state of Montana;
- AMERICAN WEST INSURANCE COMPANY** does not have any Montana claims;
- AMERICAN WEST INSURANCE COMPANY** has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- AMERICAN WEST INSURANCE COMPANY** was or is in liquidation during the period in question set forth in the amended summons served upon me.

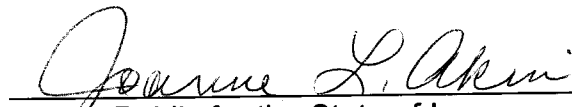
¶5 I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which Petitioner's counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of **AMERICAN WEST INSURANCE 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.

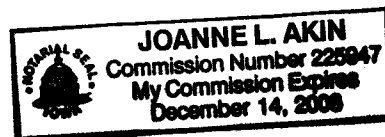
DATED this 26 day of January, 2006.

  
John F. Thelen, Secretary

Signed and sworn to before me this 26<sup>th</sup> day of January, 2006.

  
Notary Public for the State of Iowa  
Residing at: Iowa  
My Commission Expires: \_\_\_\_\_

(SEAL)  
Affidavit Page 2



LAW OFFICES OF  
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LISA A. LEVERT

January 27, 2006

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

Re: Robert Flynn and Carol Miller, et al. v. Montana State Fund and  
Liberty Northwest Insurance Corporation  
WCC No. 2000-0222

Dear Ms. Kessner:

Enclosed for filing in the above-captioned matter are the original and one copy of  
Affidavit of John F. Thelen on behalf of American West Insurance Company.

Please acknowledge receipt and filing date of the same by returning a conformed  
copy 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: Rexford L. Palmer, Esq.