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**FILED**

MAR -7 2012

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

**IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA**

**WCC No. 2000 - 0222**

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**ROBERT FLYNN and CARL MILLER,  
Individually and on Behalf of Others Similarly Situated,**

**Petitioners**

**vs.**

**MONTANA STATE FUND,**

**Respondent/Insurer,**

**and**

**LIBERTY NORTHWEST INSURANCE CORPORATION,**

**Intervenor.**

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**AFFIDAVIT**

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STATE OF Wisconsin )

: ss.

County of Portage )

I, Eric M. Fugina \_\_\_\_\_ (NAME), being first duly sworn upon oath,  
depose and say:

DO NOT WRITE IN THESE SPACES

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I, Eric M. Fugina \_\_\_\_\_ (NAME), am a Claims Technical Specialist, Sr. \_\_\_\_\_ (POSITION) \_\_\_\_\_ for Middlesex Insurance Company.

In my capacity as Claims Technical Specialist, Sr. \_\_\_\_\_ (POSITION) of Middlesex Insurance Company I am authorized to make the statements set forth in this affidavit on behalf of Middlesex Insurance Company and to bind Middlesex Insurance Company by these statements.

After a review of our records, I swear under oath that I am authorized to make the statements set forth in this affidavit on behalf of Middlesex Insurance Company and to bind Middlesex Insurance Company in its request for dismissal from the above-entitled action for any or all of the following reasons (check any or all that apply):

Middlesex Insurance Company has never written workers' compensation insurance in the state of Montana;

Middlesex Insurance Company does not have any Montana claims;

√ Middlesex Insurance Company has no claimants meeting the Court's criteria in this matter as set forth in the summons;

Middlesex Insurance Company was or is in liquidation during the period in question set forth in the amended summons served upon me.

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 counsel for Petitioner[s] may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of Middlesex Insurance Company. After such 90 days, if no objection is lodged by counsel for Petitioner[s], the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

I declare under penalty of perjury that the foregoing is correct.

DATED this 8th day of December, 2011.

Eric M. Fugina  
(Name)

Claims Technical Specialist, Sr.  
(Title)

State of Wisconsin )

: ss.

County of Portage )

On this 8<sup>th</sup> day of December, 2011, before me, a Notary Public, personally appeared Eric M. Fugina, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that (s)he executed the same.

Notary Public for the State of Wisconsin  
Printed Name: Patti Mueske  
Residing in: Wood County  
My commission expires: January 18 2015

Notary Signature: *Patti Mueske*

Notary Seal:

