

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222 & 2003-0771

**FILED**

Robert Flynn & Carl Miller

MAY 16 2012

**Petitioners**

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

vs.

State Compensation Insurance Fund, et al.

**Respondent/Insurer<sup>s</sup>**

**AFFIDAVIT**

STATE OF CALIFORNIA )  
 ) : ss.  
County of Alameda )

¶1 I, Lisa Simone (NAME), being first duly sworn upon oath, depose and say:

¶2 I, Lisa Simone (NAME), am the Vice President, Claims (POSITION) of Everest National Insurance Company ("Everest") (NAME OF INSURER OR SELF-INSURER).

¶3 In my capacity as Vice President, Claims (POSITION) of Everest (NAME OF INSURER OR SELF-INSURER), I am authorized to make the statements set forth in this affidavit on behalf of Everest (NAME OF INSURER OR SELF-INSURER) and to bind Everest (NAME OF INSURER OR SELF-INSURER) by these statements.

¶4 After a review of our records, I swear under oath that Everest (NAME OF INSURER OR SELF-INSURER) should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

DOCKET ITEM NO. 671

- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- Everest \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) has no claimants meeting the Court's criteria in this matter as set forth in the summons; and Flynn III, 2011 MT 300.
- \_\_\_\_\_ (NAME OF INSURER OR SELF-INSURER) 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 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 Everest (NAME OF INSURER OR SELF-INSURER). 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.

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

DATED this 10 day of May, 2012

Lisa Simone  
(Name)  
Vice President  
(Title)

Signed and sworn to before me this 10<sup>th</sup> day of May, 2012

Eileen M. Friel  
Notary Public for the State of New Jersey  
Residing at: Somerset County, New Jersey  
My Commission Expires: \_\_\_\_\_

(SEAL)

