

Daniel J. Whyte  
KELLER, REYNOLDS, DRAKE,  
JOHNSON & GILLESPIE, P.C.  
50 South Last Chance Gulch  
P.O. Box 598  
Helena, MT 59624  
406/442-0230 Tele.  
406/449-2256 Fax.

Attorneys for Arch Insurance Company

**FILED**

**JUN 17 2005**

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

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ROBERT FLYNN,	)	WCC NO. 2000-0222
	)	
and	)	
	)	
CARL MILLER	)	
	)	
Petitioners,	)	
	)	
vs.	)	<b>NOTICE OF LIMITED</b>
	)	<b>APPEARANCE AND</b>
MONTANA STATE FUND,	)	<b>RESPONSE TO SUMMONS</b>
	)	
Respondent/Insurer	)	
	)	
and	)	
	)	
LIBERTY NORTHWEST INSURANCE	)	
CORPORATION,	)	
	)	
Intervenor.	)	

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COMES NOW, the undersigned, and notifies the Court and counsel for the parties of the Limited Appearance and Response of Daniel J. Whyte and the law firm of Keller, Reynolds, Drake, Johnson & Gillespie, P.C., in this matter on behalf of Arch Insurance Company and Arch Reinsurance Company (Arch Insurance). This appearance is strictly limited to issues raised by this Court in its May 4, 2005 Summons.

1. Arch Insurance Company provided workers' compensation insurance during the time frame in question under the above case.

205

2. A reasonable search has been conducted by Arch Insurance of all claims filed under policies written by Arch Insurance in Montana which has revealed that no claims apply to the issues before the Court in this matter.

3. Arch Insurance has not in any of its claims offset workers' compensation benefits as a result of the receipt of Social Security benefits by a claimant.

4. Arch Insurance Company finds that it does not have any potential exposure under this case, which is supported by the attached copy of an affidavit of Joseph Labell, vice president and legal counsel for Arch Insurance Company. The original will be filed when it is received.

WHEREFORE, Arch Insurance Company respectfully requests that it be dismissed from this matter and from any further potential liability as a result of the above contentions.

DATED this 17<sup>th</sup> day of June, 2005.

KELLER, REYNOLDS, DRAKE,  
JOHNSON & GILLESPIE, P.C.



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Attorney for Arch Insurance Company

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SC 06.17.2005

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ROBERT FLYNN,

and

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Petitioners,

vs.

MONTANA STATE FUND,

Respondent/Insurer

and

LIBERTY NORTHWEST INSURANCE  
CORPORATION,

Intervenor.

WCC NO. 2000-0222

**AFFIDAVIT OF  
JOSEPH LABELL**

STATE OF NEW YORK )

County of New York )


2. I am familiar with the issues before the Montana Workers' Compensation Court with respect to the case of *Flynn/Miller v. Montana State Fund*, WCC No. 2000-0222 and the issues therein that affect Arch Insurance. SC 06.17.2005

3. Arch Insurance has conducted an investigation of its Montana specific claims to determine whether any apply to or are effected by the issues before the Workers' Compensation Court in the *Flynn/Miller* case and find that none apply.


4. Arch Insurance therefore has not limited any claimants from receiving social security benefits and is not obligated to pay any attorney fees under the Common Fund Doctrine.

FURTHER, your affiant sayeth not.

DATED this 17 day of June, 2005.

  
\_\_\_\_\_  
Joseph Labell

SUBSCRIBED AND SWORN TO before me this 17 day of June, 2005.

  
\_\_\_\_\_  
(Signature)

MELISSA B. GILLIGAN  
\_\_\_\_\_  
(Printed Name)

( SEAL )

Notary Public for the State of Connecticut  
Residing at Stamford.

My Commission expires: 2/28/2010