

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222

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FLYNN/MILLER

Petitioner

Vs.

MONTANA STATE FUND

Intervenor.

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**FILED**

JAN 3 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

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AFFIDAVIT

STATE OF INDIANA        )  
                                  :ss.  
County of Allen         )

¶1 I, Michael J. Allison, being first duly sworn upon oath, depose and say:

¶2 I, Michael J. Allison, am the Corporate Secretary of Brotherhood Mutual Insurance Company (Brotherhood Mutual).

¶3 In my capacity as Corporate Secretary of Brotherhood Mutual, I am authorized to make the statements set forth in this affidavit on behalf of Brotherhood Mutual and to bind Brotherhood Mutual by these statements.

¶4 After a review of our records, I swear under oath that Brotherhood Mutual should be dismissed from the above-entitled action for the following reasons:

- Brotherhood Mutual has never written workers' compensation insurance in the state of Montana;
- Brotherhood Mutual does not have any Montana claims;
- Brotherhood Mutual has no claimants meeting the Court's criteria in this matter set forth in the summons;

¶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

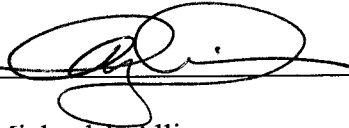
DOCKET ITEM NO. 408

the foregoing statement(s) made by me on behalf of Brotherhood Mutual. 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 29<sup>th</sup> day of December, 2005.

Signed: \_\_\_\_\_



Name: Michael J. Allison

Title: Corporate Secretary

Signed and sworn to before me this 29<sup>th</sup> day of December, 2005.

Karen S. Miller

Notary Public for the State of Indiana

Residing at: 6922 Wolfsboro Lane, Ft Wayne, IN

My Commission Expires: 12-14-2009

(SEAL)

Karen S. Miller, Notary Public  
Resident of Allen County, Indiana

My Commission expires 12/14/09  
Notary Commission No. 512472

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Resident of Allen County, Indiana

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**Brotherhood Mutual**<sup>SM</sup>  
Insurance Company

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**Michael J. Allison, JD, CPCU**  
Chief Counsel and Corporate Secretary

December 29, 2005

Workers' Compensation Court  
PO BOX 537  
Helena. MT 59624-0537

Subject- Affidavit and Request for Dismissal  
*Flynn/Miller v. Montana State Fund* (WCC No. 2000-0222)

Dear Workers' Compensation Court

Enclosed is an affidavit relating to the case *Flynn/Miller v. Montana State Fund* (WCC No. 2000-0222). As affirmed in this affidavit, Brotherhood Mutual Insurance Company has never written a single workers' compensation policy in the state of Montana, and, accordingly, has never owed or paid any claims related to workers' compensation in the state. It is therefore our company's position that Brotherhood Mutual should be promptly dismissed as a defendant in the *Flynn/Miller* matter, and in all other workers' compensation-related litigation currently pending in the state.

Thank you for your attention to this matter.

A handwritten signature in black ink, appearing to read "Michael J. Allison", written over a horizontal line.

Michael J. Allison, JD, CPCU,  
Vice President & Chief Counsel,  
Brotherhood Mutual Ins. Co.