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FILED

JUL - 8 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

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.

WCC No. 2000-0222

MOTION TO DISMISS

COMES NOW Affiliated FM Insurance Company and Factory Mutual Insurance Company, by and through their attorneys CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH P.L.L.P., and respectfully move to dismiss them from the above-entitled action. Counsel for Petitioner, Rex Palmer has been advised of this motion and does not object.

On May 18, 2005, prior to engaging CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH P.L.L.P., Andrew J. Scanlon, Associate In-House Counsel for Factory Mutual Insurance Company, responded by letter to this Court's *Summons and Notice of Attorney Fee Lien* on behalf of Affiliated FM Insurance Company and Factory Mutual Insurance Company (collectively "FM Global"). In the letter of May 18, 2005, Mr. Scanlon advised that "FM Global" has no record of ever receiving a Workers' Compensation claim from a claimant in the State of Montana during the time period provided in the Summons."

DOCKET ITEM NO. 315

Accordingly, because it has no exposure for *Flynn*-type benefits, FM Global respectfully requests an order dismissing it from the above-entitled action.

Dated this 9th day of July, 2005.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH P.L.L.P.
Attorneys for FM GLOBAL

By: 

STEVEN W. JENNINGS

CERTIFICATE OF SERVICE

I, STEVEN W. JENNINGS, one of the attorneys for the law firm of Crowley, Haughey, Hanson, Toole & Dietrich P.L.L.P., hereby certify that on the 9th day of July, 2005, I mailed a true and correct copy of the foregoing document, postage prepaid, to the following:

Mr. Rex Palmer
Attorneys Inc., PC
301 W. Spruce
Missoula, MT 59802


STEVEN W. JENNINGS

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Attorneys are licensed in Montana unless otherwise noted; * also licensed in North Dakota; # also licensed in Wyoming, + not licensed in Montana

July 8, 2005

Workers' Compensation Court
PO Box 537
Helena, MT 59624-0537

RE: *Robert Flynn and Carl Miller vs. Montana State Fund, et al.*
WCC No. 2000-0222

Dear Clerk:

Enclosed please find a Motion to Dismiss to file in the matter referenced above on behalf of our client FM Global. Also enclosed is a proposed Order for presentation to the Judge. Thank you in advance for your assistance with this matter.

Sincerely yours,

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH P.L.L.P.

Myrna Henschel, PLS

Myrna Henschel, Certified PLS
Legal Secretary to Steven W. Jennings

mlh
Enclosures
c (w/encls.): Rex Palmer, Esq.