

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222

Flynn and Miller

Petitioner

FILED

vs.

DEC 12 2005

Montana State Fund

Respondent/Insurer.

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

AFFIDAVIT

STATE OF New York)
County of New York) : ss.

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

¶2 I, Martha Bannerman (NAME), am the General Counsel (POSITION) of Quanta Indemnity Company (NAME OF INSURER OR SELF-INSURER).

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

¶4 After a review of our records, I swear under oath that Quanta Indemnity Company (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. 393

- Quanta Indemnity Company (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;
- Quanta Indemnity Company (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;
- Quanta Indemnity Company (NAME OF INSURER OR SELF-INSURER) has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- _____ (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 Quanta Indemnity Company (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 7th day of December, 2005.

Martha J. Barren

 (Name)
General Counsel

 (Title)

Signed and sworn to before me this 7th day of December, 2005.

[Signature]

 Notary Public for the State of New York
 Residing at: New York, New York
 My Commission Expires: 07/17/2006

(SEAL)

BEVERLEY CAPLAN
 Notary Public, State of New York
 Registration #01CA6044872
 Qualified in Kings County
 My Commission Expires July 17, 2006

QUANTA

December 7, 2005

Via Certified Mail- R.R.R

Jacqueline Bockman
Deputy Clerk of Court
Workers' Compensation Court
1625 Eleventh Avenue
Helena, MT 59624

RE: Caption: Flynn and Miller vs. Montana State Fund
Docket #: WCC No. 2000-0222

Dear Ms. Bockman:

Per the Court's instruction dated December 6, 2005, I am attaching an affidavit, executed by the General Counsel of Quanta Indemnity Company ("Quanta"), attesting that Quanta never wrote workers' compensation policies in Montana (or anywhere for that matter) and should therefore be dismissed from the above action. It is my understanding that the above action was the only one where Quanta was served with a Summons. If your records show otherwise, please advise me accordingly.

Thank you for your attention to this. If you have any questions or comments about this matter, please feel free to contact the undersigned at (212) 373-1828.

Very truly yours,


Barry Gerstein