

FILED

JAN 24 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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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 the above listed respondents ("Respondents") and move this Court to dismiss them from the above-entitled action. Pursuant to this Court's *Memo* of December 6, 2005, this motion is supported by the attached affidavit.

Dated this 23rd day of January, 2006.

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

By: 

STEVEN W. JENNINGS


Attorneys for Millers First Insurance Company

DOCKET ITEM NO. 427

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 27 day of January, 2006, 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

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222

Robert Flynn, etal.

Petitioner

vs.

Millers First Insurance Company

Respondent/Insurer.

AFFIDAVIT

STATE OF Illinois)

: ss.

County of Madison)

¶1 I Angela M. Schulmeister, being first duly sworn upon oath, depose and say:

¶2 I, Angela M. Schulmeister, am the Manager – Service Operations of Millers First Insurance Company.

¶3 In my capacity as Manager – Service Operations of Millers First Insurance Company, I am authorized to make the statements set forth in this affidavit on behalf of Millers First Insurance Company and to bind Millers First Insurance Company by these statements.

¶4 After a review of our records, I swear under oath that Millers First Insurance Company 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. 427

_____ has never written workers= compensation insurance in the state of Montana;

_____ does not have any Montana claims;

Millers First Insurance Company has no claimants meeting the Court's criteria in this matter as set forth in the summons;

_____ was or is in liquidation during the period in question set forth in the amended summons served upon me.

¶15 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 Millers First Insurance Company. 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.

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

DATED this 18TH day of January, 2006.

Angela Schmeister
(Name)

Manager - Service Operations
(Title)

Signed and sworn to before me this 18th day of January, 2006.

Cynthia A. Simms
Notary Public for the State of Illinois
Residing at: Worden, IL
My Commission Expires: 4/27/08

