

IN THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

WCC No. 2000-0222

ROBERT FLYNN

and

CARL MILLER, Individually and on Behalf of
Others Similarly Situated

Petitioners

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer.

FILED

JAN 24 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

AFFIDAVIT

STATE OF OHIO)
County of FRANKLIN) : ss.

¶1 I, Charles D. Hamm (NAME), being first duly sworn upon oath, depose and say:

¶2 I, Charles D. Hamm (NAME), am the President (POSITION) of Evergreen National Indemnity Company (NAME OF INSURER OR SELF-INSURER).

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

¶4 After a review of our records, I swear under oath that Evergreen National Indemnity Company (NAME OF INSURER OR SELF-INSURER) should be dismissed from the above-titled action for any or all of the following reasons (check any or all that apply):

Evergreen National Indemnity Company (NAME OF INSURER OR SELF-INSURER) has never written workers' compensation insurance in the state of Montana;

_____ (NAME OF INSURER OR SELF-INSURER) does not have any Montana claims;

_____ (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.

¶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 Evergreen National 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.

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

DATED this day of January 10, 2006.

[Signature]

(Name)
President

(Title)

Signed and sworn to me this 10th day of January, 2006.



PATRICIA A. BURRELL
Notary Public, State of Ohio
My Commission Expires 09-26-07

Patricia A. Burrell

Notary Public for the state of Ohio

Residing at: 5311 Knottwood Dr.
Westerville, Oh 43081

My commission expires: 09-26-07