

**FILED**

FEB - 2 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 1<sup>st</sup> day of February, 2006.

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

By:   
STEVEN W. JENNINGS

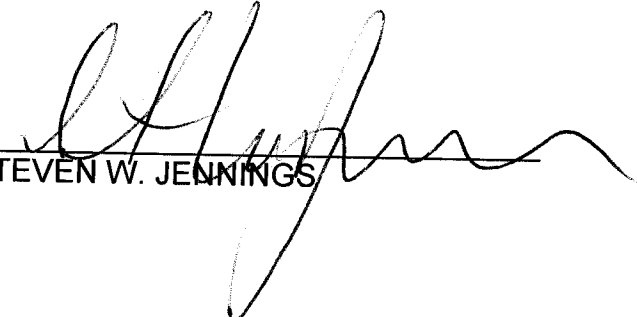
Attorneys for FedEx Express, Inc.

DOCKET ITEM NO. 453

**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 1<sup>st</sup> day of February, 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



\_\_\_\_\_ (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;

FedEx Express, Inc. 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 FedEx Express, Inc. 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.

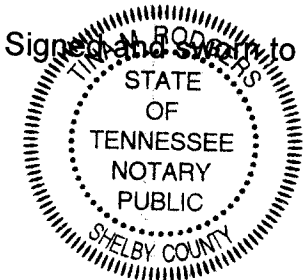
¶6 I declare under penalty of perjury that the foregoing is correct.

DATED this 27th day of January, 2006.

Darron Perkins  
(Name)

Workers Compensation Administrator  
(Title)

Signed and sworn to before me this 27th day of January, 2006.



(NOTARIAL SEAL)

Jenna [Signature]  
[Signature of Notary]

[Typed, stamped, or printed Name of Notary]  
Notary Public for the State of Tennessee  
Residing at Arlington

[City of Residence]  
My commission expires: 12/28 2008  
[Month Day Year]

MY COMMISSION EXPIRES:  
December 28, 2008