

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000-0222

Robert Flynn

Petitioner

vs.

Montana State Fund

Respondent/Insurer.

FILED

FEB 10 2006

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

AMENDED AFFIDAVIT

STATE OF Nebraska)
: ss.
County of Douglas)

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

¶2 I, Rod Rathbun (NAME), am the Asst. Vice President of Financial Information Systems (POSITION) of National Indemnity Company (NAME OF INSURER OR SELF-INSURER).

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

¶4 After a review of our records, I swear under oath that National Indemnity Co. (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. 459

- _____ (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 National Indemnity Co. (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.

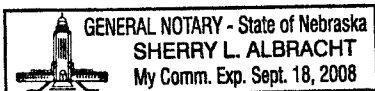
¶16 I declare under penalty of perjury that the foregoing is correct.

DATED this 6th day of February, 2006.

Rod Z. Robinson
(Name)

Assistant Vice President
(Title)

Signed and sworn to before me this 6th day of February, 2006.



(SEAL)

Sherry L. Albracht
Notary Public for the State of Nebraska
Residing at: Omaha, Nebraska Papillion, NE
My Commission Expires: Sept. 18, 2008



National Indemnity Company

A member of the Berkshire Hathaway group of insurance companies

February 6, 2006

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Jackie Bockman
Deputy Clerk of Court
Workers' Compensation Court
1625 11th Avenue
P.O. Box 537
Helena, Montana 59624-0537

Re: *Flynn v. Montana State Fund*, WCC No. 2000-0222

Dear Ms. Bockman:

Enclosed for filing in the above-referenced matter is an amended affidavit by National Indemnity Company.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Nancy F. Peters'.

Nancy F. Peters
Associate General Counsel

cc: Rex Palmer
Attorneys, Inc., P.C.
301 W Spruce
Missoula, Montana 59802