

WORKERS COMPENSATION COURT OF THE STATE OF MONTANA

ROBERT FLYNN and CARL MILLER )

WCC No. 2000-0222

vs. )

MONTANA STATE FUND, et al )

AFFIDAVIT OF DANIEL GIBSON FOR AND ON BEHALF OF FORT WAYNE HEALTH AND CASUALTY INSURANCE COMPANY FILED

STATE OF NEW YORK )

) ss.

FEB 22 2006

COUNTY OF WESTCHESTER )

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

Daniel Gibson, being first duly sworn, on oath deposes and says:

1. I am a Vice President and Controller of Fort Wayne Health and Casualty Insurance Company ("FWH&C"). As such, I have acquired knowledge concerning the payment of workers compensation claims under policies issued by FWH&C.

2. Employees of FWH&C have conducted a diligent search of FWH&C records and based upon this search I have confirmed that FWH&C did not write any workers' compensation insurance in the state of Montana.

3. Accordingly, I swear under oath that FWH&C should be dismissed from the above-entitled action for any or all of the following reasons:

- (a) FWH&C has not written any workers' compensation insurance in the state of Montana;
(b) FWH&C does not have any Montana workers' compensation insurance claims; and
(c) FWH&C has no claimants meeting the Court's criteria in this matter as set forth in the summons.

4. 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 Petitioners' counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of FWH&C. After such 90 days, if no objection is lodged by the Petitioners' counsel, the Court will dismiss the insurer/self-insured from this action based on the sworn statements made by me in this affidavit

5. The above is true and correct to the best of my knowledge.

[Signature]
Daniel Gibson
Dated: February 16 2006

So subscribed and sworn to before me this 16 day of February, 2006

[Signature]
Notary Public for the State of New York
My Commission Expires: 10-7-06

DOCKET ITEM NO. 470

LISA M. TAMBASCIO
Notary Public, State of New York
No. 01-TA5066946
Qualified in Westchester County
Commission Expires Oct. 7, 2006