

FILED

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OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

Attorneys for Republic Western Insurance,
Lumberman's Underwriting Alliance,
ASARCO, Inc., Benefis Healthcare, Continental Casualty Co.,
Golden Sunlight Mines, Northwest Healthcare, Corp.,
Northwestern Energy, LLC, F.H. Stoltze Land &
Lumber Co., Plum Creek Timber Co. Inc, Rosauers,
and Safeway.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ROBERT FLYNN and CARL MILLER,
Individually and on Behalf of Others
Similarly Situated,

Petitioners,

v.

MONTANA STATE FUND

Respondent/Insurer,

and

LIBERTY NORTHWEST INSURANCE
CORPORATION,

Intervenor.

WCC NO. 2000-0222

**MOTION TO DISMISS AND
SUPPORTING AFFIDAVIT**

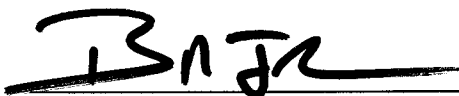
COMES NOW Republic Western Insurance, by and through its attorneys of record,

DOCKET ITEM NO. 513

and hereby moves this Court for its order dismissing Republic Western Insurance, without prejudice. This motion is supported by the affidavit of Charles Norris which is attached hereto as Exhibit A and hereby incorporated by reference.

DATED this 4th day of April, 2006.

HAMMER, HEWITT & JACOBS, PLLC

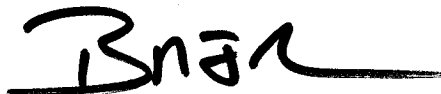


Bryce R. Floch
P.O. Box 7310
Kalispell, MT 59904-0310

CERTIFICATE OF SERVICE

This is to certify that I, Bryce R. Floch sent on this 4th day of April, 2006, the forgoing attached **MOTION TO DISMISS AND SUPPORTING AFFIDAVIT** Fees was duly serviced upon the following attorneys of record, by depositing a true copy thereof in the United States mail, postage paid, addressed as:

Rex Palmer
ATTORNEYS INC., P.C.
301 W Spruce
Missoula, MT 59802



Bryce R. Floch

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Attorneys for Republic Western Insurance

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

ROBERT FLYNN and CARL MILLER,
Individually and on Behalf of Others
Similarly Situated,

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MONTANA STATE FUND

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Intervenor.

WCC NO. 2000-0222

**AFFIDAVIT OF REPUBLIC WESTERN
INSURANCE**

STATE OF ARIZONA)

: ss.

County of Maricopa)

1. I Charles Norris, being first duly sworn upon oath, depose and say:
2. I, Charles Norris, am the Litigation Specialist of Republic Western Insurance.
3. In my capacity as Litigation Specialist of Republic Western Insurance I am authorized to make the statements set forth in this affidavit on behalf of Republic

EXHIBIT

A

tabbles

Western Insurance and to bind Republic Western Insurance by these statements.

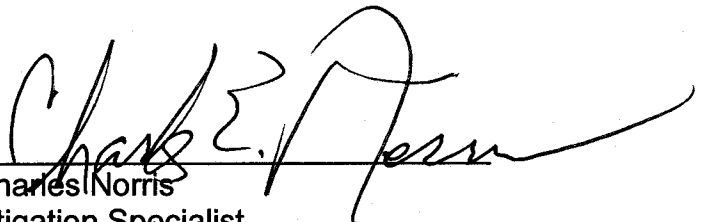
4. After a review of our records, I swear under oath that Republic Western Insurance should be dismissed from the above entitled action for the following reason:

Republic Western insurance has no claimants meeting the Courts criteria in this matter as set forth in the summons;

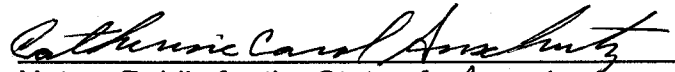
5. I understand that the Montana Workers Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which counsel for Petitioner[s], may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of Republic Western Insurance. 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 22nd day of February, 2006.


Charles Norris
Litigation Specialist
Republic Western Insurance

Signed and sworn to before me this 22nd day of February, 2006.


Notary Public for the State of Arizona
Residing at: 7324 W. 34th Ave Phoenix
My Commission Expires: 5-20-08

(SEAL)

