

**FILED**

JUN 24 2008

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

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Package System, Inc.

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,

Petitioner,

vs.

MONTANA STATE FUND,

Respondent/Insurer.

WCC No. 2002-0676

REQUEST FOR ORDER OF  
DISMISSAL

COMES NOW FedEx Ground Package System, Inc. ("FedEx Ground"), and pursuant to the procedures for dismissal set forth in this Court's *Memo of December 6, 2005 (Docket # 325)*, respectfully requests this Court to issue an order dismissing FedEx Ground from the above action. This motion is supported by the following brief.

**BRIEF**

On December 6, 2005, this Court set forth an affidavit procedure by which insurers who "believe [they] should be dismissed from any of the common fund matters" could seek such dismissal. *Memo, 12/6/05 (Docket # 325)*. As set forth by the Court the dismissal procedure required the insurers to file a pre-formatted affidavit setting forth their reasons for dismissal. Pursuant to the terms of the affidavit, counsel for Petitioner was entitled to a 90-day period of discovery for the purpose of investigating the assertions set forth therein. If, after 90 days, Petitioner did not object to the requested dismissal, the Court would then dismiss the insurer.

Pursuant to the affidavit procedure, on March 10, 2006, FedEx Ground submitted the form affidavit along with a motion requesting dismissal. *Motion to Dismiss, 3/10/06 (Docket # 382)*.

On April 5, 2006, taking advantage of the 90-day discovery period, counsel for Petitioner served upon counsel for FedEx Ground, several discovery requests. *Notice*

DOCKET ITEM NO. 471

pdf

*of Service of Discovery (Petitioner's discovery Requests to FedEx Ground Package System, Inc.), 4/5/06 (Docket # 389).*

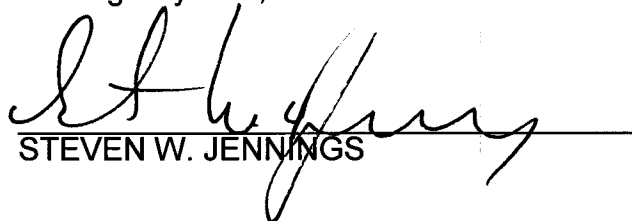
On May 4, 2006, FedEx responded to Petitioner's discovery requests. Notice of Service of *Discovery (FedEx Ground Package System, Inc.) 5/4/06 (Docket # 389).*

In the 90 days following FedEx Ground's filing of the affidavit and motion to dismiss, and having conducted the discovery contemplated by the Court's affidavit process for dismissal, Petitioner has never objected to FedEx Ground's request for dismissal. Accordingly, dismissal is appropriate.

WHEREFORE FedEx Ground respectfully requests this Court to issue an order dismissing it with prejudice from this case.

Dated this 23<sup>rd</sup> day of June 2008.

CROWLEY, HAUGHEY, HANSON,  
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Attorneys for FedEx Ground  
Package System, Inc.

  
STEVEN W. JENNINGS

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 23<sup>rd</sup> day of June 2008:

- U.S. Mail
- FedEx
- Hand-Delivery
- Facsimile
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