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FILED

MAY - 2 2003

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

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Attorneys for Respondent/Insurer

THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

ROBERT FLYNN,

Petitioner,

v.

STATE COMPENSATION
INSURANCE FUND,

Respondent.

WCC No. 2000-0222

**AFFIDAVIT OF CRISTINE E.
McCOY**

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

CRISTINE E. McCOY, being first duly sworn upon her oath, deposes and says:

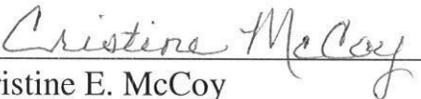
1. I am currently a Project Specialist and have previously been a Claims Supervisor

with the Montana State Fund ("State Fund").

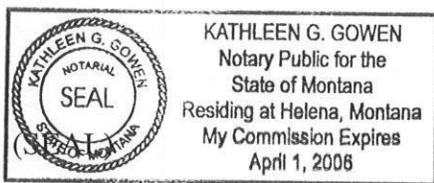
2. As a Claims Adjuster, I have personal knowledge of how the State Fund offsets social security disability ("SSD") benefits from workers' compensation benefits. I was involved in the review and implementation of *Broeker v. Great Falls Coca-Cola* (1996), 275 Mont. 502, 914 P.2d 967, and my knowledge of the SSD offset includes knowledge of the documents the State Fund receives from the Social Security Administration ("SSA") regarding SSD benefits.
3. The attorneys' fees in SSD cases are based on a percentage of the retroactive benefits that are awarded and the fees are subject to a cap. However, there is no consistency in the attorneys' fees award. Therefore, the State Fund would have to individually verify the amount of the fee the attorney collected in connection with the social security claim. As part of the verification process, the State Fund would have to make a separate inquiry - presumably to the SSA - because the paperwork that the State Fund receives from the SSA does not include an explanation of the award of attorneys' fees.
4. Some claimants had separate lawyers for their SSD claim and their workers' compensation claim.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 1st day of May 2003.


Cristine E. McCoy

SIGNED AND SWORN TO before me on May 1, 2003, by Cristine E. McCoy.




Notary Public for the State of Montana
Residing at Helena, Montana
My Commission Expires: *April 1, 2006*