

VIA FACSIMILE @ (406) 444-7798 AND ORIGINAL BY MAIL

December 26, 2005

Judge James Shea
1625 11th Avenue
PO Box 537
Helena, MT 59624-0537

Re: *Flynn/Miller v. State Fund*
Cause No. 2000-0122

Dear Judge Shea:

Enclosed is the Order for Notification of the Common Fund Fee Settlement and Hearing Date, which the parties have agreed upon. Subject to the Court's approval, this notice will be sent to State Fund claimants with potential entitlement to Flynn/Miller benefits. We have reached an agreement that the cost of mailing the notice will be split between the State Fund and my office.

Upon suggestion by the State Fund, we adapted the enclosed draft order from the order in the Buckley Common Fund action. Upon approval of the substance of the order by the Court, a hearing date will be set which allows at least 30 days for claimants to respond. I propose that the hearing be set for the week of February 13th to allow for mailing and to assure a full 30 days before the hearing.

Thank you for your attention in this matter.

If you have any questions or concerns, please do not hesitate to contact this office.

Sincerely,
ATTORNEYS INC., P.C.



Rex Palmer

RP:nml
Enclosures

cc: Brad Luck
Tom Martello

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2009-0122

DRAFT

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

vs.

MONTANA STATE FUND
Respondent/Insurer

and

LIBERTY NORTHWEST INSURANCE CORPORATION
Intervenor.

**ORDER FOR NOTIFICATION OF COMMON FUND FEE SETTLEMENT AND
HEARING DATE**

¶ As a result of previous decisions in the above-captioned cause, Petitioners' have established a legal precedent for certain claimants to receive additional workers' compensation benefits as a result of State Fund reducing benefit payments by taking a Social Security offset without paying any share of the costs and fees incurred by the claimant to recover the Social Security award. You have been identified as a claimant who may be entitled to additional benefits. The amount of additional benefits to which you may be entitled has been determined and approved by Order of this Court. You have or will receive a letter from the Montana State Fund advising you of the amount of additional benefits. There is no need for you to take any action to receive this additional benefit. Please do not contact the Montana State Fund or the Court about this entitlement.

Since the Petitioners in this case established the legal precedent for additional benefits, Petitioners attorneys may be entitled to recover attorneys' fees from any additional amount that is due you. Petitioners propose that the attorneys' fees be fixed at twenty-five percent (25%) of the additional benefit set forth above. The Montana State Fund, by agreement, does not object to this amount. If the proposal is approved, you will receive seventy-five percent (75%) of the additional benefit set forth above. (If you have already been notified of your additional entitlement, 25%

of your additional entitlement may have been withheld pending hearing on the attorneys fees that may be payable to Petitioners attorneys.) You have the right to support or object the proposed amount of the attorneys' fees.

At _____ on the _____ day of _____, 2006, the Court will hold a hearing to determine the amount of the fees. The hearing will be held at the Workers' Compensation Court, 1625 11th Avenue, Helena, Montana. You have the right to be present at that hearing and to voice your support for or objection to the proposed fees. You may also file written statements supporting or objecting to the proposed fee by mailing your statement to the Workers' Compensation Court, P.O. Box 537, Helena, MT 59624-0537, no later than the _____ day of _____, 2006. After the hearing, the Court will determine what fees are due.

DATED in Helena, Montana, this _____ day of _____ 2006.

JUDGE

(seal)

c: Mr. Rex Palmer
Mr. Tom Martello
Mr. Brad Luck