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Attorneys for Progressive Casualty Insurance Company

**FILED**

JUN 20 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA  
BEFORE THE WORKERS' COMPENSATION JUDGE

ROBERT FLYNN and CARL MILLER,	)	WCC No. 2000-0222
Individually and on Behalf of Others	)	
Similarly Situated,	)	
	)	
Petitioners,	)	
	)	
-vs.-	)	
	)	
MONTANA STATE FUND,	)	
	)	
Respondent/Insurer,	)	
	)	
- and -	)	
	)	
LIBERTY NORTHWEST INSURANCE	)	
CORPORATION,	)	
	)	
Intervenor.	)	
	)	

**PROGRESSIVE CASUALTY INSURANCE COMPANY'S RESPONSE TO  
COURT'S MAY 4, 2005, ORDER AND SUMMONS**

1 Progressive Casualty Insurance Company (Progressive), by and through its counsel,  
2 Phillips & Bohyer, P.C., respectfully submits the following Response to the Court's May 4,  
3 2005 Order and Summons.

4 1. Progressive was licensed to write workers' compensation policies in the State  
5 of Montana from August 27, 1969 through December 31, 1992.

6 2. From and after July 1, 1974, Progressive issued only one workers'  
7 compensation policy in Montana which was rescinded.

8 3. No claims were ever made under or pursuant to this policy and no benefits  
9 disbursed.

10 4. No workers' compensation claims have been filed against Progressive in the  
11 State of Montana from and after July 1, 1974.

12 5. Accordingly, Progressive has never exercised any offset for social security  
13 disability benefits awarded to an insured or claimant against workers' compensation benefits  
14 the company has paid to an insured or claimant as described in paragraph one of the  
15 Summons.

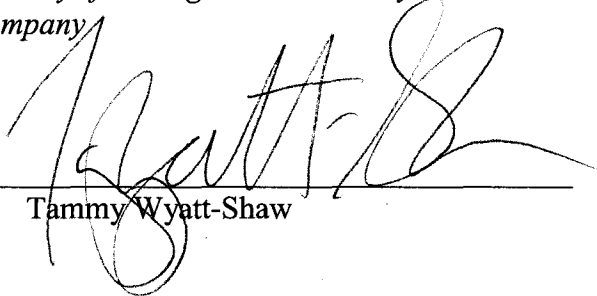
16 6. Progressive therefore disputes that any claimant or insured is entitled to  
17 additional benefits from Progressive under *Flynn v. State Compensation Ins. Fund*, 2002 MT  
18 279, 312 Mont. 410, 60 P.3d 397.

19 7. Therefore Progressive respectfully requests dismissal from the current action.

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1 DATED this 17th day of June, 2005.

2 PHILLIPS & BOHYER, P.C.  
3 *Attorneys for Progressive Casualty Insurance*  
4 *Company*

5  
6 By   
7 Tammy Wyatt-Shaw

8  
9  
10 CERTIFICATE OF SERVICE

11 I, the undersigned, a representative of the law firm of Phillips & Bohyer, P.C., hereby  
12 certify that on this \_\_\_\_ day of June, 2005, I served a true and complete copy of the  
13 foregoing "*Progressive Casualty Insurance Company's Response to Court's May 4, 2005*  
14 *Order and Summons*" by depositing the same in the United States Mail, postage prepaid  
15 thereon, addressed as follows:

16 Worker's Compensation Court of the State of Montana  
17 P.O. Box 537  
18 Helena, MT 59624-0537  
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