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**ATTORNEY FOR SMITH'S FOOD & DRUG  
CENTERS, INC.**

**FILED**

JUN 20 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

**IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA**

**WCC. No. 2000-0222**

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**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**

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**INITIAL RESPONSE TO SUMMONS AND REQUEST FOR EXTENSION OF  
TIME**

Smith's Food and Drug ("Smith's") hereby responds to the Summons filed May 4, 2005. Paragraph 5 of the Summons states in part:

DOCKET ITEM NO. 235

If you are unable to provide the required information within the time provided for your response or are uncertain whether the methodology available to you to identify such claimants and their entitlements will satisfy petitioners' counsel and the Court, then your response should so state. However, you should further state how you propose to identify the claimants and determine their entitlements and indicate the amount of additional time needed to do so.

Smith's has operated grocery stores within the State of Montana since approximately 1997. This response is made upon behalf of The Kroeger Company and Fred Meyer, Inc. Shopping Centers (both named in the Summons), to the extent Smith's is responsible to respond on behalf of those entities. Smith's has purchased assets of certain Fred Meyer stores within the State of Montana. Additionally, The Kroeger Company is the parent corporation of Smith's.

Smith's has been diligently searching its records to determine what, if any, claims and claimants to report pursuant to the mandates of paragraph 5 of the Summons. Smith's has been unable to complete that process and seeks an extension of time up through and including July 20, 2005 within which to respond to the Summons.

WHEREFORE, Smith's request an extension of time up to and including July 20, 2005 within which to file its response to the Summons.

DATED this 17th day of June, 2005.



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**ATTORNEY FOR SMITH'S FOOD AND  
DRUG CENTERS, INC.**



June 17, 2005

**VIA UPS NEXT DAY AIR**

Workers' Compensation Court  
1625 Eleventh Avenue  
Helena, MT 59624

**Re: Robert Flynn, et al. v. State Compensation Ins. Fund, et al.  
WCC No. 2000-0222**

Dear Sir or Madam:

Please find enclosed the Response to Summons and Request For Extension of Time with respect to the above-titled matter.

If you have any questions, please feel free to contact me.

Sincerely,

W. Scott Mitchell  
of Holland & Hart <sup>LLP</sup>

WSM:pds  
Enclosure

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**DOCKET ITEM NO.** \_\_\_\_\_