

FILED

SEP 25 2003

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT is entered into this ²² August, 2003, by and between MONTANA STATE FUND ("State Fund") and REXFORD L. PALMER ("Palmer"), for purposes of maintaining and insuring the confidentiality of information revealed to Palmer during the course of litigation in *Flynn v. Montana State Fund*, WCC No. 2000-0222 and *Flynn v. Montana State Fund*, 2002 MT 279, 312 Mont. 410, 60 P.3d 397.

OFFICE OF
WORKERS' COMPENSATION JUDGE
DAYHELENA, MONTANA

WHEREAS, the State Fund operates as a Plan III workers' compensation insurer pursuant to Montana Code Annotated § 39-71-2311 *et seq.*, and Palmer is an attorney licensed to practice law in the State of Montana and who maintains an office in Missoula, Montana; and

WHEREAS, pursuant to the procedure followed in similar common fund cases, the parties wish to follow the Court's directive to enter into a confidentiality agreement, subject to Court approval, to protect the privacy interests of those persons who may be affected by the Montana Supreme Court's decision in *Flynn v. Montana State Fund*, 2002 MT 279, 312 Mont. 410, 60 P.3d 397.

WHEREAS, as part of the post-remand implementation process, Palmer is requesting permission to examine and review confidential information maintained by the State Fund;

NOW, THEREFORE, in consideration of the foregoing premises the parties agree as follows:

1. The parties agree that the term "confidential information" includes the names of claimants, claim numbers, medical records as well as other personal information which is protected from public disclosure. The parties agree that any confidential information revealed to Palmer during the course of this litigation shall not be reproduced, disseminated or otherwise communicated by Palmer or by any person acting on behalf of Palmer except as provided in this agreement or pursuant to an Order of the Workers' Compensation Court.

2. The confidential information shall be available only to Palmer or members of his law firm. The aforementioned persons are authorized to inspect the confidential information solely for the purpose of matters relating only to this litigation.

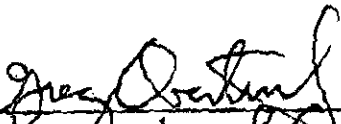
3. Palmer agrees that each person examining the confidential information shall receive a copy of this agreement and shall sign an acknowledgment that he/she has received a copy of this agreement and agrees to be bound by the terms hereof.

4. This agreement shall remain in effect until the issues in this litigation are resolved and the post-remand implementation process is completed.

5. At the conclusion of this litigation and the post-remand implementation process, whether by trial, settlement or otherwise, the confidential information subject to this agreement as well as copies thereof shall be returned to the State Fund for disposal. However, Palmer may retain documents which he deems necessary to protect himself against potential claims for professional negligence or misconduct. Any and all documents retained by Palmer shall be placed under seal and shall not be reproduced, disseminated or otherwise communicated to any person except in connection with a defense to a claim for professional negligence or misconduct. Even when defending against a claim, Palmer shall prudently guard against the unwarranted dissemination of the confidential information. Further, any and all documents retained by Palmer shall be destroyed after a reasonable period of time.

DATED this 27th day of Sept, 2003.


MONTANA STATE FUND

By 
Its Legal Counsel

DATED this 28 day of August, 2003.

By 
REXFORD L. PALMER

APPROVED as to form and content and SO ORDERED on this 24th day of September, 2003.


Hon. Mike McCarter
Workers' Compensation Judge



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