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Workers' Compensation Court

Mike McCarter
Judge

January 19, 2005

Mr. Thomas J. Harrington
Attorney at Law
P.O. Box 7909
Missoula, MT 59807-7909

Re: Flynn and Miller v. Montana State Fund and Liberty Northwest Ins. Corp.
WCC No. 2000-0222 and 2003-0771

Dear Tom:

Enclosed is the Amendment to Settlement Agreement which was presented to the Court on December 16, 2004, and which was directed by the Court to be returned to you during the conference call in the above-entitled matter on this date.

Sincerely,

A handwritten signature in cursive script that reads "Clara Wilson".

Clara Wilson
Deputy Clerk of Court

CW
Enclosure
c: Mr. Rex Palmer

AMENDMENT TO SETTLEMENT AGREEMENT

State Compensation Insurance Fund ("State Fund") and Rex Palmer ("Palmer") entered into a Settlement Agreement in January 2004, which the Workers' Compensation Court approved on March 19, 2004. Implementation of that Settlement Agreement contemplated that State Fund would provide Palmer with personal information about State Fund claimants subject to the Confidentiality Agreement approved by the Court. State Fund raised questions about the propriety of providing Palmer with personal information about claimants. The Court has addressed these questions in its Decision and Order Regarding Disclosure of Claimant Information dated November 5, 2004. In the Order, the Court required disclosure of personal claimant information. The Court also expressed its opinion that State Fund has a duty to petition the Supreme Court for a writ of supervisory control concerning the Order. State Fund intends to file a petition for a writ.

In an effort to avoid any further delay in the implementation of the Settlement Agreement and pending decision by the Supreme Court on State Fund's forthcoming petition, State Fund and Palmer hereby agree to amend the Settlement Agreement as follows:

The letter that will be issued by the Court will contain a release which must be signed and returned in order for State Fund to continue to share personal information with Palmer. However, if any State Fund claimants do not specifically agree to the further disclosure of any protected information to counsel for the common fund claimants, then no additional personal information shall be shared with him regarding those claimants. Failure to obtain a release will not impair payment of benefits otherwise payable or payment of an attorney fee to Palmer from the benefits. For claimants who do not elect to opt-in and provide a release, the Court will consider and initiate a process to oversee the payment of benefits to them without disclosing personal information to Palmer.

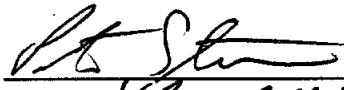
Since, pending decision on the forthcoming petition, State Fund will not be providing Palmer with the names of those persons who may be entitled to receive additional benefits until or unless the release is executed, Palmer will be unable to identify which State Fund claimants will be notified of their potential entitlement. Therefore, State Fund will provide the Court and Palmer with a status report upon the initial mailing and at other times directed by the Court, if necessary, describing: 1) the process and criteria used to identify those persons who may be entitled to receive additional benefits; 2) the

number of notices sent; 3) the date the notices were sent; and 4) any other non-personal information requested by the Court or Palmer to help verify complete implementation of the required process. Specific information concerning those claimants signing the release shall be provided to Palmer. Initiation of the notice process shall begin immediately and shall not be delayed pending the initial status report or any subsequent status reports. If any concerns arise during the course of implementation, the Court retains jurisdiction and may, on motion or *sua sponte*, revisit the question of disclosure and exchange of information to assist with the implementation process.

No other provision of the Settlement Agreement is modified.

Dated this 16th day of December 2004.

State Compensation Insurance Fund

By 
Its VP, OPERATIONS SUPPORT

Dated this 18th day of Nov. 2004.

By 
Rex Palmer

APPROVED as to form and content and SO ORDERED on this ____ day of _____ 2004.

Hon. Mike McCarter
Workers' Compensation Judge