

WORKERS' COMPENSATION COURT

Hearing No. 3359  
Volume XVI

Helena, Montana  
October 6, 2003

ROBERT FLYNN

Rex Palmer

vs.

STATE COMPENSATION INSURANCE FUND

Thomas E. Martello

WCC No. 2000-0222

I held a telephone conference with above counsel after receiving a call from Mr. Martello inquiring if the order regarding retroactivity, etc. is a final, appealable order. He is concerned as this is the last day for an appeal if it is. All three of us agreed it should not be considered a final order as I did not certify it as such and there are remaining issues, nonetheless, since those issues in *Flynn* are enforcement ones, it is conceivable the Supreme Court might take a different view, therefore I suggested that the safest route would be to file a notice of appeal. I indicated that if there are troubles with deadlines thereafter I could issue a clarification stating it is not an appealable order as I see it and the parties could then ask the Supreme Court to dismiss the appeal as premature. Settlement is likely in any event.

MIKE McCARTER  
Judge