

WORKERS' COMPENSATION COURT

Hearing No. 3507
Volume XVII

Helena, Montana
October 14, 2004

ROBERT FLYNN

Rex Palmer

vs.

MONTANA STATE FUND

Bradley J. Luck

WCC No. 2000-0222

I held a telephone conference with Mr. Luck and Mr. Palmer to advise them that we needed to address the global lien filed by Mr. Palmer. They will discuss it between themselves and we will then hold a further conference. I also advised them that I was working through the proposed order and opt-in notice they had provided me but that I was struggling with the approach and am inclined to bite the bullet and address *St. James* head on. I told them I am unconvinced that *St. James* requires a restrictive opt-in approach in workers' compensation cases, however, I indicated that if I ultimately reach that conclusion I would want the State Fund to request a writ of supervisory control so that we get a definitive decision on the matter from the Supreme Court. I will continue drafting a proposed decision and circulate it when done among the attorneys for their comment.

MIKE McCARTER
Judge