

WORKERS' COMPENSATION COURT

Hearing No. 3546
Volume XVII

Helena, Montana
January 19, 2005

ROBERT FLYNN and CARL MILLER

Rex Palmer

vs.

MONTANA STATE FUND

Thomas J. Harrington and
Thomas E. Martello

and

LIBERTY NORTHWEST INSURANCE CORPORATION
(Intervenor)

Larry W. Jones

WCC No. 2000-0222 and
WCC No. 2003-0771

I held a telephone conference with above counsel to discuss the questionnaire to be sent to State Fund claimants who may be entitled to *Flynn* benefits. Also present were Ms. Nancy Butler and Ms. Cris McCoy.

We all agreed that the opt-in/out provision in paragraph 5 can be deleted in its entirety in light of the denial of a writ of supervisory control in this case. The notice regarding Mr. Palmer's review will be left in, however, the first phrase of the second sentence of paragraph 5 ("If you agree,") will be deleted. Also, at the bottom of the questionnaire the following capitalized language will be added: "DO NOT CONTACT THE MONTANA STATE FUND."

The return date for the questionnaire will be left blank by us and the State Fund will fill it in when it generates the letter and questionnaire for mailing, which will take approximately two weeks. The date filled in will be 210 days from the date of mailing. We are providing envelopes and letterhead to the State Fund for the mailing.

Mr. Jones, Mr. Palmer, and myself also discussed the status of the lien against Liberty Northwest. Messrs. Palmer and Jones will meet and identify any issues that remain with respect to application of the *Flynn* decision to Liberty and establish a briefing schedule with respect to those issues. They will advise the Court within two weeks if there are remaining issues that need to be briefed and the briefing schedule. Mr. Jones meanwhile will check with the IT people at Liberty to determine what must be done to identify *Flynn* claimants.

MIKE McCARTER
Judge

Minute Entry e-mailed to attorneys of record on January 20, 2005.