

WORKERS' COMPENSATION COURT

Hearing No. 3570  
Volume XVII

Helena, Montana  
March 17, 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 Rex Palmer and Larry W. Jones to get an update on progress in the case. Mr. Jones indicated that in light of the recent Supreme Court decision concerning retroactivity, Liberty will not argue non-retroactivity as a defense to common fund application of the *Flynn* decision. He and Mr. Palmer indicated there may, however, be issues concerning entitlements of deceased claimants and laches in certain cases, pre-computer era cases especially. I suggested, and counsel agreed, that we defer those issues until we determine what information is available which will allow Liberty to identify benefitted claimants and collect the information.

Mr. Palmer has drafted a proposed common fund summons to other insurers and has forwarded it to Mr. Jones for comment. He will forward it to me by e-mail. I will work on it and then solicit their further input.

Mr. Palmer also indicated that the arrangement with the State Fund allows him to follow-up with claimants in collecting information. He has also been getting calls from some claimants, a couple of whom have indicated that they have disputes involving rates and would like him to represent them. He has not agreed to do so at this point. I suggested that we discuss this with State Fund attorneys and do so on April 1, 2005, at the time of the Ruhd-Rausch conference in Helena.

MIKE McCARTER  
Judge

Minute Entry e-mailed to attorneys of record and Global Common Fund Distribution List on March 17, 2005.

## Bockman, Jacqueline

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