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FILED

NOV 10 2003

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

ROBERT FLYNN,

Petitioner,

v.

STATE COMPENSATION
INSURANCE FUND,

Respondent.

WCC No. 2000-0222

**JOINT REQUEST TO DELAY
TRANSMISSION OF RECORD**

COME NOW the parties, and pursuant to Montana Rules of Appellate Procedure 10(c), hereby request an order delaying the time within which to transmit the record to the Montana Supreme Court in the above-referenced matter.

After discussions between counsel and the Court on November 4, 2003, the parties agreed to file a request with this Court to extend the deadline for transmitting the record

to the Montana Supreme Court. The parties base their request on the authority conferred on this Court by Rules of Appellate Procedure 10(c), which states in relevant part:

The district court may extend the time for transmitting the record. The request for extension must be made within the time originally prescribed or within an extension previously granted, and the district court shall not extend the time to a day more than 90 days from the date of filing of the first notice of appeal . . . A motion for an extension of time for transmitting the record made in either court [the district court or the Supreme Court] shall show that the inability of the appellant to cause timely transmission of the record is due to causes beyond the appellant's control or to circumstances which may be deemed excusable neglect . . . The motion shall include whether or not previous extensions of time have been granted and if so, the total amount of time extended.

To preserve its appellate right in the event this Court's *Decision and Order Regarding Retroactivity and Attorney Fees* is deemed final for purposes of appeal, the State Fund filed its Notice of Appeal on October 6, 2003. However, legal issues are still pending with the Workers' Compensation Court. Because matters are still pending, the transmission of a full and dispositive record is difficult at this time. Therefore, in accordance with the time parameters allowed by Rule of Appellate Procedure 10(c), the parties request an order from this Court permitting the Clerk of the Workers' Compensation Court to delay transmitting the record to the Montana Supreme Court until January 5, 2004.

Lastly, as Rules of Appellate Procedure 10(c) requires, the parties hereby inform the Court that no previous extensions have been granted in this matter.

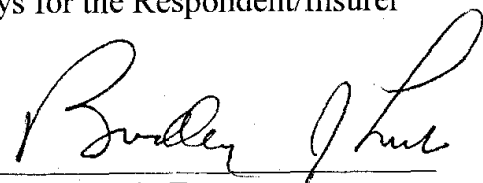
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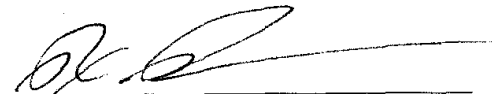
DATED this 5th day of November, 2003.

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By 
Rex Palmer, Esq.

CERTIFICATE OF MAILING

The undersigned, a representative of Garlington, Lohn & Robinson, PLLP, hereby certifies that on the 6th day of November, 2003, she mailed a true and correct copy of the foregoing *Joint Request To Delay Transmission Of Record*, postage prepaid, to the following:

Ed Smith, Clerk of the Supreme Court
Montana Supreme Court
215 N. Sanders
Helena, MT 59620-3003

Andrea E. Coleman