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February 11, 2004

Hon. Mike McCarter
Workers' Compensation Court Judge
Workers' Compensation Court
P.O. Box 537
Helena, MT 59624-0537

Re: *Flynn and Miller v. Montana State Fund*
WCC No. 2000-0222 and WCC no. 2003-0771

Dear Judge McCarter:

Enclosed please find a fully executed Settlement Agreement in the above-captioned matter. Although the State Fund previously filed a Notice of Appeal, the WCC still maintains jurisdiction to review, approve, and oversee the Settlement Agreement and implementation process because the Montana Supreme Court recently granted the parties' Joint Motion to Dismiss Appeal. We thank you for your assistance in supporting the Joint Motion to Dismiss Appeal.

As you will note, the effect of the Settlement Agreement is contingent upon your review and approval. Further, Paragraph 12 of the Settlement Agreement indicates that the parties will jointly request an order from you which includes language indicating that the interests of the common fund claimants were zealously represented, and that all parties acted reasonably in litigating, implementing, remediating, and settling the matters at issue in the above-referenced lawsuit. Consistent with that paragraph, we will prepare and submit a joint motion and a proposed order for your review.

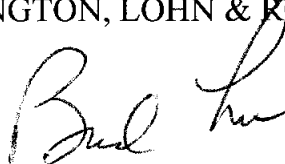
Unless the Court directs otherwise, we plan on following the procedural path established in the previous common fund cases. As the Court is aware, this will include a due process hearing - preceded by notice to affected parties - to set and approve common fund fees after the identification process is complete.

Hon. Mike McCarter
Workers' Compensation Court Judge
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If you have any questions or concerns about the Settlement Agreement or any issues connected to this matter, please do not hesitate to contact us at 523-2500.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP



By

Bradley J. Luck

BJL:sec

Enc.

c: Rex L. Palmer, Esq. (w/enc.)
Nancy Butler, Esq. (w/enc.)
Thomas E. Martello, Esq. (w/enc.)