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

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OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

RE: Flynn v. Montana State Fund
Cause No.: 2000-0222

Dear Judge McCarter:

We represent the State Fund in several matters before the Court involving implementation of Supreme Court decisions, retroactivity and common fund fees. Those cases are as follows:

1. *Robert Flynn v. State Compensation Ins. Fund*, 2001 MTWCC 24;
2. *Debra Stavenjord v. State Compensation Ins. Fund*, WCC No. 2000-0207; and
3. *Carl Miller v. Montana State Fund*, WCC No. 2003-0771.

In addition, we are working with the State Fund in relation to the implementation of the decision in *Schmill* (*Schmill v. Liberty N.W. Ins. Corp.*, 2001 MTWCC 36). Given the manner in which past cases involving complex implementation matters proceeded, we felt that it was appropriate to write to the Court to advise of our recent filings and future intentions.

We are sending for filing today a motion for a stay and for prospective implementation directions in *Flynn*. We forwarded for filing yesterday a motion in *Miller* to stay the proceeding until the issues raised in *Flynn* are decided. We presently do not intend to file a Response to the Petition in *Miller* until the Court rules on our motion or otherwise directs such filing. We

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understand that the file in *Stavenjord* has not been returned to the Court from the Supreme Court. When it is, we intend to file a Motion for a Stay and another request for directions on prospective implementation. (Mr. Murphy has already filed his request for retroactive common fund fees.) Given the interplay of the implementation issues, the State Fund intends to file a motion to intervene in *Schmill* once it is returned to the Court for further proceedings.

We are most willing to discuss any of the above with the Court and counsel involved in an informal conference call setting, hearing or meeting with the Court in Helena. It is our hope that advising the Court of our direction on these significant cases will allow maximum coordination from your end.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP

By 

Bradley J. Luck

BJL:kb

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