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JUL 2 7 2005

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR, Petitioner,

VS.

MONTANA STATE FUND Respondent/Insurer WCC No. 2002-0676
Response to Motion to Dismiss
From Hortica Insurance

The petitioner responds to the motion to dismiss, dated 7/13/05, from Hortica Insurance, f/k/a Florists' Mutual Insurance Company. Hortica seeks dismissal based on the affidavit of its agent Brent A. Bates. The petitioner responds that before the Court considers dismissal, the Court should require the following information (by either discovery or supplemental affidavit), which was not contained in Mr. Bates' affidavit:

 Please describe the procedure that your company used to determine if it had a "qualifying claim."

2. Please indicate the number of claims that your company had in Montana between 7/1/1987 and 12/22/2004.

3. Please indicate how many of these claims (identified in number 2) involved injured workers over age 65 (either at the time of injury or at the time of maximum medical improvement).

The petitioner requests this information before responding to Hortica's motion to dismiss.

DATED this 26th day of July, 2005.

Thomas J. Murphy

Attorney for the Petitioner Reesor

DOCKET ITEM NO. 274

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2005, a copy of the foregoing Response was served upon the Attorney for the Respondent by mailing a true and correct copy of said document via first class mail to:

Daniel J. Whyte Keller, Reynolds, Drake P. O. Box 598 Helena, MT 59624

Thomas J. Murphy