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FILED

JUN - 6 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

Attorneys for Ace American Insurance Co.
Ace American Reinsurance Co.
Ace Fire Underwriters Insurance Co.
Ace Indemnity Insurance Co.
Bankers Standard Insurance Company
Bankers Standard Fire and Marine
Century Indemnity Co.
Insurance Company of North America
Indemnity Insurance Company of North America
Pacific Employers Insurance Co.

**IN THE WORKERS' COMPENSATION COURT
OF THE STATE OF MONTANA**

DALE REESOR,)
) WCC No. 2002-0676
Petitioner,)
)
v.) **ANSWER**
)
MONTANA STATE FUND,)
)
Respondent/Insurer.)
)

Come now Respondents Ace American Insurance Co., Ace American Reinsurance Co., Ace Fire Underwriters Insurance Co., Ace Indemnity Insurance Co., Bankers Standard Insurance Company, Bankers Standard Fire and Marine, Century

1. **ANSWER**

Indemnity Co., Insurance Company of North America, Indemnity Insurance Company of North America, and Pacific Employers Insurance Co., by and through their counsel, Poore, Roth & Robinson, P.C., and submit their Answer with defenses to the Summons and Notice of Attorney Fee Lien.

DEFENSES

1. The *Reesor* decision did not create a common fund.
2. If a common fund does exist, a common fund attorney fee lien should only apply to the insurers at risk.
3. Attorneys for the Petitioner have no attorney-client agreements with claimants not parties to this litigation and, therefore, have no entitlement to common fund attorney fees against non-parties.
4. Failure of attorneys for Petitioner to plead an entitlement to common fund attorney fees in the pre-remand proceedings bars a post-remand request for common fund attorney fees.
5. Retroactive application of the *Reesor* decision is not applicable.
6. For all claims arising on or after April 21, 2003, attorney fees under the common fund doctrine are barred.
7. The *Reesor* decision does not apply to claimants injured between July 1, 1991 and June 30, 1995.

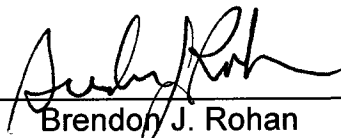
These Respondents reserve the right to add further defenses as they become known.

2. ANSWER

DATED this 3rd day of June, 2005.

POORE, ROTH & ROBINSON, P.C.

By



Brendon J. Rohan
1341 Harrison Avenue
P.O. Box 2000
Butte, Montana 59702

3. **ANSWER**


CERTIFICATE OF SERVICE BY MAILING

This is to certify that on the 3rd day of June, 2005, the foregoing attached **ANSWER** was duly served upon the following attorneys of record, by depositing a true copy thereof in the United States mails, postpaid, addressed as follows, to-wit:

Thomas J. Murphy, Esq.
Murphy Law Firm
P. O. Box 3226
Great Falls, MT 59403-3226

Attorneys for Petitioner

POORE, ROTH & ROBINSON, P.C.

By 
Brendon J. Rohan

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OF COUNSEL
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URBAN L. ROTH

JAMES A. POORE, JR.
(1916-2002)

June 3, 2005

Workers' Compensation Court
1625 11th Avenue
P. O. Box 537
Helena, Montana 59624

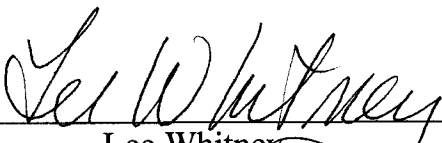
Re: Reesor v. ACE Insurance et al.
WCC No. 2002-0676

Dear Ms.Patricia:

Enclosed for filing in the above-referenced matter are the original and one copy of the **Answer to Summons and Notice of Attorney Fee Lien** on behalf of the Respondents represented by Poore, Roth & Robinson and a **Certificate of Service** confirming that the document was served upon Petitioner's attorney. Please acknowledge receipt and filing of the Answer by file stamping and returning the copy. I have enclosed a return envelope for your convenience in doing so. Thank you for your courtesy and attention.

With best regards,

POORE, ROTH & ROBINSON, P.C.

By 
Lee Whitney
Secretary

Enclosures