

Daniel J. Whyte
KELLER, REYNOLDS, DRAKE,
JOHNSON & GILLESPIE, P.C.
50 South Last Chance Gulch
P.O. Box 598
Helena, MT 59624
406/442-0230 Tele.
406/449-2256 Fax.

Attorneys for Arch Insurance Company

FILED

JUN - 6 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	WCC NO. 2002-0676
)	
Petitioner,)	
)	
vs.)	RESPONSE TO PETITIONER'S
)	REQUEST FOR
)	CERTIFICATION OF A
MONTANA STATE FUND,)	COMMON FUND AND
)	ENFORCEMENT OF
Respondent/Insurer.)	ATTORNEY LIEN

COMES NOW, the undersigned, and notifies the Court and counsel for the parties of the Limited Appearance of Daniel J. Whyte and the law firm of Keller, Reynolds, Drake, Johnson & Gillespie, P.C., in this matter on behalf of Arch Insurance Company. This appearance is strictly limited to issues raised by this Court in its November 17, 2003 Notice.

By making this Limited Appearance, Arch Insurance Company, does not consent to be a party to this action or member of any class, nor do they consent to the sufficiency of notice, or jurisdiction of this Court. The appearance will be for the limited purpose of opposing class certification particularly as it relates to any potential class of defendants. Defendants are not appearing for purposes of any discovery or resolution of any factual or legal issues other than whether this Court should entertain a class action as proposed.

While Arch Insurance Company provided workers' compensation insurance during the time frame in question under the above case, a reasonable search which has been conducted by Arch Insurance of all claims filed under policies written by Arch Insurance has not revealed any claims which apply to the issues before the Court in this matter. Furthermore, Arch Insurance Company finds that it does not have any potential exposure

under this case, which is supported by the attached affidavit of Joseph Labell, vice president and legal counsel for Arch Insurance Company. The Affidavit contains a facsimile signature. This appearance will be supplemented with the original Affidavit when it is received by the undersigned.

WHEREFORE, Arch Insurance Company respectfully requests that it be dismissed from this matter and from any further potential liability as a result of the above contentions.

DATED this 6th day of June, 2005.

KELLER, REYNOLDS, DRAKE,
JOHNSON & GILLESPIE, P.C.



Daniel J. Whyte
50 South Last Chance Gulch
P.O. Box 598
Helena, MT 59624
Attorney for Arch Insurance Company

CERTIFICATE OF SERVICE

I, Daniel J. Whyte, hereby certify that I served a true and correct copy of **RESPONSE TO PETITIONER'S REQUEST FOR CERTIFICATION OF A COMMON FUND AND ENFORCEMENT OF ATTORNEY LIEN**, to the following:

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

DATED this 6th day of June, 2005.



Daniel J. Whyte

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IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	
)	WCC NO. 2002-0676
)	
Petitioner,)	
)	
vs.)	AFFIDAVIT OF
)	JOSEPH LABELL
MONTANA STATE FUND,)	
)	
Respondent/Insurer.)	

STATE OF CONNECTICUT)
 :
 County of Fairfield)

Joseph Labell, being first duly sworn upon oath, deposes and states as follows:

1. I am a vice president and legal counsel for Arch Insurance Company.
2. I am familiar with the issues before the Montana Workers' Compensation Court with respect to the case of *Reesor v. Montana State Fund*, WCC No. 2002-0676 and the issues therein that affect Arch Insurance.
3. Arch Insurance has conducted an investigation of its Montana specific claims to determine whether any apply to or are effected by the issues before the Workers' Compensation Court in the *Reesor* case and find that none apply.

4. Arch Insurance has not limited permanent partial disability benefits for older claimants, therefore no liability for additional payments to Montana claimants or attorney's fees for those claims exist.

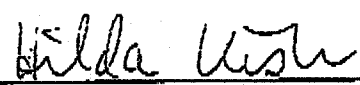
FURTHER, your affiant sayeth not.

DATED this 6th day of June, 2005.



Joseph Labell

SUBSCRIBED AND SWORN TO before me this 6th day of June, 2005.



(Signature)

HILDA KISH

(Printed Name)

Notary Public for the State of Connecticut
Residing at Stamford, Connecticut.
My Commission expires: 9-30-2009

(SEAL)