

CURT DRAKE
Drake Law Firm, P.C.
111 North Last Chance Gulch
Suite 3J, Arcade Building
P. O. Box 1181
Helena, MT 59624-1181
Telephone: (406) 495-8080

FILED

JUN - 6 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

ATTORNEYS FOR CHURCH MUTUAL INSURANCE COMPANY

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA
WCC No. 2002-0676

DALE REESOR,

Petitioner,

vs.

MONTANA STATE FUND,

Respondent/Insurer.

**ANSWER OF CHURCH MUTUAL INSURANCE COMPANY
REGARDING COMMON FUND ATTORNEY FEE LIEN**

FIRST DEFENSE

Church Mutual Insurance Company has no claims which fall within the parameters of the Court's Order of April 22, 2005. Upon information and belief, Church Mutual had no claims involving the payment of permanent-partial disability benefits which were then reduced or eliminated by operation of § 39-7-710, M.C.A.

SECOND DEFENSE

In the alternative, although not anticipated, should Church Mutual Insurance Company be found to have had one or more claimants whose benefits are subject to the proposed lien, answering Defendant alleges that the proposed lien is excessive.

95

THIRD DEFENSE

The proposed lien interferes with the rights of the claimants to contract with private attorneys of their own choosing to represent them.

FOURTH DEFENSE

As this Court has no "class action" rule, reference is made to Rule 23, M.R.Civ.P., pursuant to Rule 24.5.352. This "common fund" is an attempt to create a class action, in effect, without providing the procedural and constitutional safeguards which would attend to a true class action.

Having answered the "Notice of Attorney's Fee Lien" and Court Order dated April 22, 2005, answering Defendant requests:

1. That it be dismissed from this action as having no claims subject to the potential common fund or orders relative thereto;
2. That the Court award costs due to the unnecessary joinder of answering Defendant.

DATED this 6th day of June, 2005.

DRAKE LAW FIRM, P.C.

BY: Curt Drake
Curt Drake
111 North Last Chance Gulch
Suite 3J, Arcade Building
P. O. Box 1181
Helena, MT 59624-1181

CERTIFICATE OF SERVICE

I, Curt Drake, one of the attorneys for Respondent, Church Mutual Insurance Company, hereby certify that I mailed a true and correct copy of the **ANSWER OF CHURCH MUTUAL INSURANCE COMPANY REGARDING COMMON FUND ATTORNEY FEE LIEN**, postage fully prepaid by U.S. Mail, on this 6th day of June, 2005, to the following:

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

Curt Drake
Curt Drake