

William O. Bronson, pllc
 ALEXANDER, BAUCUS, PAUL & YOUNG, P.L.L.C.
 615 Second Avenue North, Suite 300
 P.O. Box 3169
 Great Falls, MT 59403
 Telephone: (406) 761-4800
 Facsimile: (406) 761-4804

Attorneys for the Following Insurers:

- 1) **Hartford Ins. Company of the Midwest;**
- 2) **Hartford Casualty Insurance Co.;**
- 3) **Hartford Accident & Indemnity Co.;**
- 4) **Hartford Underwriters Ins. Co.;**
- 5) **Hartford Fire Insurance Co.;**
- 6) **Twin City Fire Insurance Co.;**
- 7) **Property & Insurance Company of Hartford.**

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-)	
)	
MONTANA STATE FUND,)	
)	
Respondent/Insurer.)	
_____)	

**SEPARATE ANSWER AND RESPONSE BY THE FOLLOWING INSURERS TO
 SUMMONS AND NOTICE OF ATTORNEY FEE LIEN:**

- HARTFORD INS. COMPANY OF THE MIDWEST;
 HARTFORD CASUALTY INSURANCE CO.;
 HARTFORD ACCIDENT & INDEMNITY CO.;
 HARTFORD UNDERWRITERS INS. CO;
 HARTFORD FIRE INSURANCE CO.;
 TWIN CITY FIRE INSURANCE CO.;
 PROPERTY & INSURANCE COMPANY OF HARTFORD**

 **ORIGINAL**

The seven above-named insurers, collectively referred to here as the "Hartford Respondents" solely for the purposes of ease of identification in this answer, hereby respond to the summons and notice of attorney fee lien filed with the Court April 22, 2005, as follows:

1. All further communications, pleadings and/or court orders or directives intended for these Respondents are to be served on the following counsel of record:

William O. Bronson, pllc
ALEXANDER, BAUCUS, PAUL & YOUNG, P.L.L.C.
615 Second Avenue North, Suite 300
P.O. Box 3169
Great Falls, MT 59403
Telephone: (406) 761-4800
Facsimile: (406) 761-4804
E-mail: bill.bronson@ablawmt.com

2. Respondents have received notice of the common fund claims made in this litigation, and respond to such claims as follows:

a) These Respondents believe that the decision of the Montana Supreme Court in this case, Reesor v. Montana State Fund, 2004 MT 370, should not be applied retroactively, but rather prospectively only, and therefore assert prospectivity as an affirmative defense;

b) These Respondents are informed and believe that ascertainment of a common fund may be exceedingly difficult, if not near impossible, due to the passage of time, the potential loss of records pertaining to claimants whose injuries were accepted by one or more of these Respondents during the affected period, and the time and expense that would be incurred by representatives of the Respondents in attempting to ascertain the extent of the fund, the cost of which would exceed the benefits of investigation. Accordingly, the Court should give consideration to whether determination of a fund is appropriate in this case, given these circumstances. Determination of common fund cases should be subject to a cost/benefit analysis.

In the alternative, the Court should give consideration to alternative means for identifying members of any common fund, and not rely on traditional means for identification used in past litigation, which have required insurers to expend significant internal resources in ascertaining potential common fund or class members;

Separate Answer of the "Hartford Respondents"

c) Although all of the named insurers are listed has having authority to underwrite workers' compensation coverage in Montana during the relevant time periods, not all may have actually issued policies to Montana insureds during that period. Any insurers determined not to have underwritten coverage should be dismissed;

d) These Respondents are further informed and believe that, based on the Montana Supreme Court's decision in Russette v. State Compensation Fund, 265 Mont. 90, 874 P.2d 1217, which construed the provisions of Mont. Code Ann. § 37-71-710 in effect from July 1, 1991 through June 30, 1995, any common fund determined by this Court to exist should be limited to those claimants injured between July 1, 1987 and June 30, 1991, and after July 1, 1995;

e) There is no entitlement to common fund attorney's fees for claims arising from injuries that occurred on or after April 21, 2003, the effective date of amendments to Mont. Code Ann. §§ 39-71-611 and -612;

f) These Respondents are further informed and believe that any and all claims that were settled on a full and final compromise basis from July 1, 1987 through at least the date of the Montana Supreme Court's decision in Reesor should be excluded from any common fund determination.

g) These Respondents further incorporate in this Answer any and all other defenses, including affirmative defenses, that are raised by any of the other Respondents/Insurers in these proceedings.

3. These answering Respondents reserve the right to seek amendment of this Answer as circumstances dictate.

4. In accordance with ARM 24.5.302(1)(c), these Respondents identify the following witnesses:

Identity of Witness:

Linda Slavik
Great Falls, Montana.

Subject Matter of Testimony:

Current resident adjuster for the various "Hartford Respondents" in Montana; may have knowledge and information pertinent to the identification of potentially affected claims

Separate Answer of the "Hartford Respondents"

5. In accordance with ARM 24.5.302(1)(d), these Respondents identify the following documents:

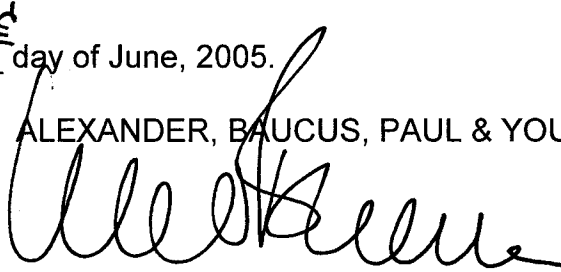
- i) Information and/or data in claims files for potentially affected claimants pertaining to their eligibility in any common fund determined by the Court

6. These answering Respondents reserve the right to identify such other witnesses or documentary information that may be relevant to these proceedings.

WHEREFORE, having fully answered the Court's summons and notice to appear, these answering Respondents/Insurers pray for relief in accordance with the positions and defenses set forth in this Answer.

ANSWER dated this 3rd day of June, 2005.

ALEXANDER, BAUCUS, PAUL & YOUNG, P.L.L.C.



William O. Bronson, pllc

Separate Answer of the "Hartford Respondents"

Certificate of Service

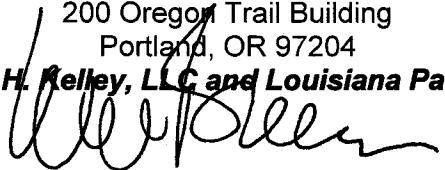
The undersigned hereby certifies that he mailed a copy of the foregoing **SEPARATE ANSWER AND RESPONSE TO SUMMONS AND NOTICE OF ATTORNEY FEE LIEN, ETC.**, to the following counsel of record this 3rd day of June, 2005, by United States Mail, postage pre-paid:

Mr. Thomas J. Murphy
MURPHY LAW FIRM
P.O. Box 3226
Great Falls, MT 59403-3226
Attorneys for Petitioner, Dale Reesor

Mr. Thomas Harrington & Mr. Brad Luck
GARLINGTON, LOHN & ROBINSON, P.L.L.P.
199 W. Pine
P.O. Box 7909
Missoula, MT 59807
-and-

Mr. Thomas Martello
MONTANA STATE FUND
P.O. Box 4759
Helena, MT 59604
Attorneys for Respondent, Montana State Fund

Ronald W. Atwood
RONALD W. ATWOOD, P.C.
333 S.W. Fifth Avenue
200 Oregon Trail Building
Portland, OR 97204
Attorneys for J. H. Kelley, LLC and Louisiana Pacific Corporation



William O. Bronson, pllc

Separate Answer of the "Hartford Respondents"