

3. A common fund does not exist in this case because the process of identifying unascertainable beneficiaries places an impermissible and undue burden on insurance companies who wrote workers' compensation policies in Montana.
4. A common fund does not exist in this case because the participating litigant, Dale Reesor, did not create, preserve or increase an identifiable monetary fund or benefit in which all non-participating beneficiaries maintain an interest.
5. In the event that a common fund is found to exist in this case, the identified beneficiaries are liable for payment of the attorneys' fees and not this answering respondent.

WHEREFORE, MID CENTURY INS. CO. respectfully requests this court to issue an order denying the existence of a common fund in this case.

Dated this 2nd day of June, 2005.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH P.L.L.P.
Attorneys for Insurance Company
MID CENTURY INS. CO.

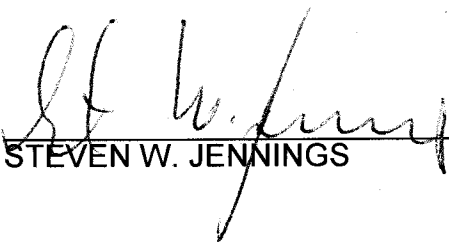
By: 

STEVEN W. JENNINGS

CERTIFICATE OF SERVICE

I, STEVEN W. JENNINGS, one of the attorneys for the law firm of Crowley, Haughey, Hanson, Toole & Dietrich P.L.L.P., hereby certify that on the 2nd day of June, 2005, I mailed a true and correct copy of the foregoing document, postage prepaid, to the following:

Mr. Thomas J. Murphy
Murphy Law Firm
PO Box 3226
Great Falls, MT 59403-3226


STEVEN W. JENNINGS