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FILED

JUN - 6 2005

ATTORNEYS FOR Ohio Casualty Insurance Co., West American Insurance Co., Aromark Insurance Co., American Fire and Casualty Co., Great American Insurance Co. of New York, Great American Alliance Insurance Co., Great American Insurance Co., Great American Assurance Co., and Ohio Security Insurance

OFFICE OF
 WORKERS' COMPENSATION JUDGE
 HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	WCC No. 2002-0676
)	
PETITIONER,)	
v.)	ANSWER TO SUMMONS AND NOTICE
)	OF ATTORNEY FEE LIEN
MONTANA STATE FUND,)	
)	
Respondent/Insurer)	
)	

Pursuant to the Court's Summons and Notice of Attorney Fee Lien, Ohio Casualty Insurance Co., West American Insurance Co., Aromark Insurance Co., American Fire and Casualty Co., Great American Insurance Co. of New York, Great American Alliance Insurance Co., Great American Insurance Co., Great American Assurance Co., and Ohio Security Insurance submit the following answer:

Ohio Casualty Insurance Co., West American Insurance Co., Aromark Insurance Co., American Fire and Casualty Co., Great American Insurance Co. of New York, Great American Alliance Insurance Co., Great American Insurance Co., Great American Assurance Co., and Ohio Security Insurance object to common fund certification in this case and assert the following defenses:

1. Petitioner cannot satisfy the three elements for common fund certification set forth in the *Ruhd* decision.
2. Petitioner did not request common fund certification in a timely manner.

3. The decision should not be applied retroactively because Petitioner cannot satisfy any of the three *Chevron* factors set forth in the *Dempsey* decision.

4. Application of a common fund under the facts of this case would violate provisions of the U.S. and Montana Constitutions, including but not limited to, procedural and substantive due process, freedom of contract, and taking without just compensation.

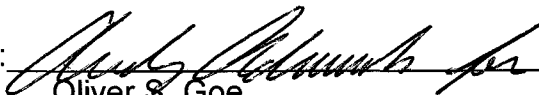
5. All defenses raised by any and all defendants in this case or that have been asserted or could be asserted in this case or any other common fund case pending before this Court or the Montana Supreme Court.

For the reasons set forth above and asserted by other defendants, Ohio Casualty Insurance Co., West American Insurance Co., Aromark Insurance Co., American Fire and Casualty Co., Great American Insurance Co. of New York, Great American Alliance Insurance Co., Great American Insurance Co., Great American Assurance Co., and Ohio Security Insurance object to common fund certification in this case.

DATED this 6th day of June, 2005.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

BY:



Oliver S. Goe

ATTORNEYS FOR Ohio Casualty Insurance Co.,
West American Insurance Co., Aromark Insurance
Co., American Fire and Casualty Co., Great American
Insurance Co. of New York, Great American Alliance
Insurance Co., Great American Insurance Co., Great
American Assurance Co., and Ohio Security
Insurance

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2005, a true and correct copy of the foregoing was this day deposited in the United States mail, postage prepaid, addressed to:

Thomas Murphy
Murphy Law Firm
P.O. Box 3226
619 Second Ave South
Great Falls, MT 59403-3226



BROWNING, KALECZYC, BERRY & HOVEN, P.C.