

Steven W. Jennings
Crowley, Haughey, Hanson,
Toole & Dietrich P.L.L.P.
P. O. Box 2529
Billings, MT 59103-2529
(406) 252-3441
Attorneys for Insurance Company
UNIVERSAL UNDERWRITERS INS. CO.

FILED

JUN - 6 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	
)	
Petitioner,)	WCC No. 2002-0676
)	
vs.)	
)	
MONTANA STATE FUND,)	RESPONSE TO PETITIONER'S
)	CLAIM FOR COMMON FUND
Respondent/Insurer.)	ATTORNEYS FEES

Comes now Respondent, UNIVERSAL UNDERWRITERS INS. CO., by and through counsel of record, and pursuant to this Court's *Summons and Notice of Attorney Fee Lien* of April 22, 2005, answers Petitioner's claim that a common fund exists in the above entitled action.

ANSWER

1. A common fund does not exist in this case because the purported non-participating beneficiaries of the decisions in this case and in *Reesor v. Montana State Fund*, 2004 MT 370, 103 P.3d 1019, 325 Mont. 1, are not ascertainable.
2. A common fund does not exist in this case because the decisions in this case and in *Reesor v. Montana State Fund*, 2004 MT 370, 103 P.3d 1019, 325 Mont. 1, are no more than favorable precedent to future litigants seeking permanent partial disability benefits under Montana's Workers' Compensation Act.

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, UNIVERSAL UNDERWRITERS 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.

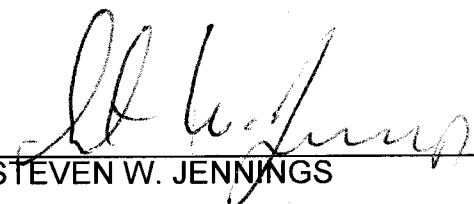
CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH P.L.L.P.
Attorneys for Insurance Company
UNIVERSAL UNDERWRITERS INS. CO.

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

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH P.L.L.P.

ATTORNEYS AT LAW

500 TRANSWESTERN PLAZA II • 490 NORTH 31ST STREET • BILLINGS, MONTANA 59101
P.O. Box 2529 • BILLINGS, MONTANA 59103-2529
TEL (406) 252-3441 • FAX (406) 252-5292
www.crowleylaw.com

STEPHEN M. BARRETT
COLBY L. BRANCH * #
KATY A. BRANDIS
ALAN C. BRYAN #
ASHLEY BURLESON
DAVID L. CHARLES
PAUL C. COLLINS
GARY M. CONNELLEY
RENEE L. COPPOCK
MARCIA J. DAVENPORT
JASON A. DELMUE
MICHAEL S. DOCKERY
JOHN B. DUDIS, JR.
JON T. DYRE #
MARY SCRIM DYRE
SCOTT A. FISK
BRUCE A. FREDRICKSON *
MICHAEL W. GREEN

ROBERT C. GRIFFIN
PETER F. HABEIN
SCOTT D. HAGEL
NATHAN S. HANEY
KEVIN P. HEANEY
KENNETH G. HEDGE *
JAMES R. HINTZ
BRIAN HOLLAND
LARRY A. HOLLE
STEVEN W. JENNINGS
DANIEL D. JOHNS
DARIN W. JOHNSON
JOEL L. KALEVA
ALLAN L. KARELL
KIELY S. KEANE
PETER M. KIRWAN
WILLIAM D. LAM DIN III
MICHAEL J. LANSING #

KENNETH K. LAY
JOHN R. LEE *
JARED M. LE FEVRE
STEVEN J. LEHMAN
JULIE A. LICHTER
DENISE D. LINFORD #
JASON P. LOBLE
CHRIS MANGEN, JR.
WILLIAM J. MATTIX
JOE C. MAYNARD, JR.
JOHN H. MAYNARD
JOSEPH P. MAZUREK
IAN McINTOSH
DANIEL N. McLEAN
MATTHEW F. McLEAN #
ROBERT G. MICHELOTTI, JR.
STEVEN R. MILCH
KIMBERLY S. MORE

DONALD R. MURRAY, JR.
KRISTIN L. OMVIG
JEFFERY J. OVEN #
SHANE D. PETERSON *
HERBERT I. PIERCE III
FRED C. RATHER *
STEVEN P. RUFFATTO
GINA S. SHERMAN
SCOTT M. SHINGLETON
JAMES P. SITES
GARTH H. SJUE *
LEONARD H. SMITH
CHRISTOPHER C. VOIGT #
DAVID M. WAGNER
NEIL G. WESTESEN
BRYAN P. WILSON
RONALD E. YOUDE

RETIRED
JAMES M. HAUGHEY
BRUCE R. TOOLE

OF COUNSEL
GEORGE C. DAL THORP
JOHN M. DIETRICH
DAVID L. JOHNSON
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
LOUIS R. MOORE *
MYLES J. THOMAS
FRED E. WHISENAND *

OFFICES
100 NORTH PARK AVENUE
SUITE 300, P.O. BOX 797
HELENA, MT 59624-0797
PHONE (406) 449-4165

111 EAST BROADWAY
P.O. BOX 1206
WILLISTON, ND 58802-1206
PHONE (701) 572-2200

431 FIRST AVENUE WEST
P.O. BOX 759
KALISPELL, MT 59903-0759
PHONE (406) 752-6644

45 DISCOVERY DRIVE
SUITE 200, P.O. BOX 10969
BOZEMAN, MT 59719-0969
PHONE (406) 556-1430

700 S.W. HIGGINS
SUITE 200
MISSOULA, MT 59803
PHONE (406) 829-2732

Attorneys are licensed in Montana unless otherwise noted, * also licensed in North Dakota, # also licensed in Wyoming, + not licensed in Montana

June 3, 2005

Workers' Compensation Court
PO Box 537
Helena, MT 59624-0537

RE: *Catherine E. Satterlee, et al. vs. Lumberman's Mutual Casualty Company, et al.*
WCC No. 2003-0840
Dale Reesor vs. Montana State Fund
WCC No. 2002-0676

Dear Clerk:

On behalf of our client insurance companies, enclosed please find one Notice of Appearance and Notice of Intent to Intervene in the Satterlee matter referenced above, with an extra copy of each to be file stamped and returned in the envelope provided.

Also enclosed is a Response in the Reesor matter referenced above, with a copy for return.

Thank you in advance for your assistance with this matter.

Sincerely yours,

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH P.L.L.P.



Chris Nickoloff

Legal Secretary to Steven W. Jennings

cnn
Enclosures