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FILED

MAY - 4 2004

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

JEREMY RUHD,

v.

LIBERTY NORTHWEST INSURANCE
CORPORATION

WCC No. 2002-0500

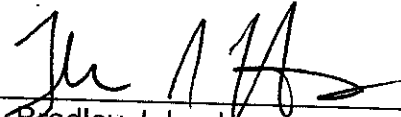
**STATE FUND'S OPENING BRIEF
REGARDING RETROACTIVITY AND
COMMON FUND ISSUES**

COMES NOW the Montana State Fund ("State Fund") and hereby files its Opening Brief Regarding Retroactivity and Common Fund Issues. Pursuant to this Court's Minute Entry of March 29, 2004, this Court permitted the State Fund to file a brief as an interested party regarding the issues of retroactivity and common fund entitlement. The State Fund had no involvement in the development of a factual record between Ruhd and Liberty. However, the arguments set forth by the State Fund on the same issues in other proceedings are relevant to this litigation. The State Fund's position regarding those issues remains unchanged. Therefore, to avoid repetitiveness, for the sake of brevity and in the interests of judicial economy, the State Fund incorporates by reference the arguments set forth in the briefs it filed in *Flynn v. State Fund*, WCC No. 2000-022, *Stavenjord v. State Fund*, WCC No. 2000-0207, *Schmill v. State Fund*, WCC No. 2001-0300, and *Rausch v. State Fund*, WCC No. 9907-8274R1, WCC No. 2000-0023R1, WCC No. 2000-0030R1. Because Ruhd may raise new arguments in his Answer Brief, the State Fund reserves its right to file a responsive brief on or before June 7, 2004.

DATED this 3 day of May, 2004.

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By 
for Bradley J. Luck

CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GARLINGTON, LOHN & ROBINSON, PLLP, Attorneys for Montana State Fund, hereby certifies that on this 3rd day of May, 2004, a true copy of the foregoing *State Fund's Opening Brief Regarding Retroactivity and Common Fund Issues* was mailed, postage prepaid, to the following:

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