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**FILED**

**SEP - 8 2003**

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT  
FOR THE STATE OF MONTANA

WC COURT NO. 2003-0840

CATHERINE E. SATTERLEE, )  
Petitioner, )

v. )

LUMBERMAN'S MUTUAL CASUALTY )  
COMPANY, )

Respondent/Insurer for )  
BUTTREY FOOD & DRUG, )  
Employer, )

JAMES ZENAHLIK, )  
Petitioner, )

v. )

MONTANA STATE FUND, )  
Respondent/Insurer for )

EAGLE ELECTRIC, )  
Employer, )

JOSEPH FOSTER, )  
Petitioner, )

v. )

MONTANA STATE FUND, )  
Respondent/Insurer for )

ALLEN ELECTRIC, )  
Employer, )

DORIS BOWERS, )  
Petitioner, )

v. )

PUTMAN & ASSOCIATES, )  
Adjusters for )

ROYAL SUNALLIANCE, )  
Respondent/Insurer for )

TIDYMANS, )  
Employer )

WC Claim No. 688CU041791

WC Claim No. 03-1997-06362-9

WC Claim No. 3-95-17425-3

WC Claim No. 290044312000

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## ANSWER TO AMENDED PETITION FOR HEARING

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COMES NOW, Lumberman's Mutual Casualty Company (hereinafter "Lumberman's"), pursuant to Administrative Rules of Montana 24.5.302, and presents the following response to the Amended Petition for Hearing.

### 1 Lumberman's Contentions

- a The mandatory mediation provisions of Montana law and the Rules of this Court are in the process of being completed. Mediation occurred on August 27, 2003, and the Mediator's Report is expected shortly.
- b Section 39-71-710, MCA, is not unconstitutional. It does not impermissibly delegate legislative power and does not violate the equal protection provisions of the Montana or United States Constitutions.
- c This matter is not proper for class certification nor common fund treatment.

### 2 Uncontested Facts

- a Petitioner Catherine Satterlee (hereinafter "Satterlee") was injured attempting to turn over a 40-45 pound bag of dog food on the bottom of a shopping cart on July 25, 1992, while in the course and scope of her duties as an employee of Buttrey Food and Drug, an employer enrolled under Plan II pursuant to the Montana Workers' Compensation Act.
- b The injury occurred in Deer Lodge County, Montana.
- c Lumberman's accepted liability for the claim as an industrial injury and paid medical indemnity benefits for a various period of time.
- d On January 25, 1996, this Court ruled that although Satterlee was totally disabled on account of her emotional and psychological condition, she was not permanently totally disabled as a result of her July 25, 1992 industrial accident.
- e Satterlee appealed this decision to the Montana Supreme Court. On December 10, 1996, the Montana Supreme Court issued its opinion and reversed this Court's denial of Satterlee's claim for total disability benefits and remanded the case for entry of judgment in Satterlee's favor. *Satterlee v. Lumberman's Mutual Casualty Co.*, 280 Mont. 85, 929 P.2d 212 (1996).

- f Satterlee turned age 65 on September 30, 1999. On or about that date, Lumberman's ceased paying permanent total disability payments in the amount of \$170.54
- g Satterlee was accepted for and placed on social security disability benefits as of January 1993.

**3 Potential Witnesses and Exhibits**

**Witnesses**

In support of its Answer, Respondent may call the following witnesses:

<u><b>Name</b></u>	<u><b>Subject Matter of Testimony</b></u>
1 Petitioner	Description of injury, reporting treatment activities, receipt and termination of benefits and communication between Petitioner and Respondents.
2 Sandy Mayernik Crawford & Co.	The handling of Petitioner's claim, determination of disability and payment and termination of disability benefits.
3 All witnesses identified by Petitioners.	
4 All witnesses identified by Respondents.	

**Exhibits**

- 1 Petitioner's Claim for Compensation;
- 2 Letter dated October 4, 1999, from Sandy Mayernik to Catherine Satterlee; and
- 3 Letter dated September 30, 1999, from Sandy Mayernik to Catherine Satterlee.

**4 Medical Records**

Exchange of medical records is not necessary to resolve the present dispute.

WHEREFORE, Respondent requests a hearing in this matter and an order of this Court:

- 1 Finding that Petitioner take nothing by way of her Complaint and that it be dismissed

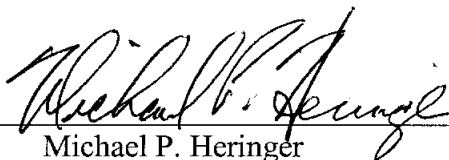
with prejudice;

- 2 Finding that § 39-71-710, is constitutional and does not violate the Montana Constitution or the 14<sup>th</sup> Amendment of the United States Constitution;
- 3 Finding that Petitioner's disability was properly terminated in conformance with the law and that Petitioner has no right to further benefits;
- 4 Denying Petitioner's request for class certification or establishment of a common fund status regarding this claim; and
- 5 For such other and further relief as the Court deems just and appropriate.

DATED this 3rd day of September, 2003.

BROWN LAW FIRM, P.C.

BY



Michael P. Heringer  
P.O. Box 849  
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Attorney Respondent

CERTIFICATE OF SERVICE

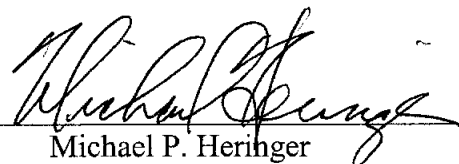
This is to certify that a true and correct copy of the foregoing was duly served on counsel of record by U.S. mail, postage prepaid, and addressed as follows this 3rd day of September, 2003:

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