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FILED

JAN 21 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA

CATHERINE E. SATTERLEE, Petitioner, v. LUMBERMAN'S MUTUAL CASUALTY COMPANY, Respondent/Insurer.	WCC No. 2003-0840 STATE FUND'S STATUS REPORT AND REQUEST FOR STATUS CONFERENCE
JAMES ZENAHLIK, Petitioner, v. MONTANA STATE FUND, Respondent/Insurer.	WCC No. 2003-0840
JOSEPH FOSTER, Petitioner, v. MONTANA STATE FUND, Respondent/Insurer.	WCC No. 2003-0840
DORIS BOWERS, Petitioner, v. PUTNAM & ASSOCIATES, Respondent/Insurer.	WCC No. 2003-0840

COMES NOW the Montana State Fund ("State Fund"), pursuant to this Court's directive of January 5, 2005, and hereby provides the Court with a status of the case.

On June 9, 2004, the State Fund filed a Status Report which indicated that the factual stipulation was nearly finalized and the issues in this case could be decided on

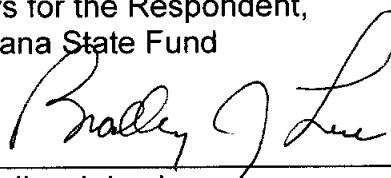
briefs rather than through a trial. The parties also believed judicial economy would be best served in this matter by awaiting the decision in *Reesor v. Montana State Fund*, Montana Supreme Court Case No. 03-639. Following the filing of the Status Report, counsel for Petitioners filed a Second Amended Petition for Hearing and raised new arguments concerning the constitutionality of Montana Code Annotated § 39-71-710, including due process and age discrimination violations. On December 22, 2004, the Montana Supreme Court issued its decision in *Reesor v. Montana State Fund*, 2004 MT 370, 325 Mont. 1, ___ P.3d ___. The factual underpinnings of *Reesor* concern the payment of PPD benefits to permanently partially disabled claimants. See *Reesor*, ¶¶ 2, 7. As such, the specific holding of *Reesor* provides that permanently partially disabled claimants are entitled to payment of PPD benefits past retirement age. However, none of the Claimants in this litigation are permanently partially disabled. Therefore, based on the limited holding of *Reesor*, a legal issue exists as to whether *Reesor* extends to permanently totally disabled claimants.

As a result of the uncertainty regarding the applicability of *Reesor* to this litigation, the State Fund respectfully requests this Court schedule a Status Conference to determine the legal issues which will need to be briefed by the parties and the extent of any discovery or factual determinations which may be necessary.

DATED this 21 day of January 2005.

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By



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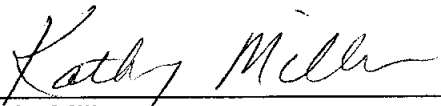
CERTIFICATE OF MAILING

The undersigned, of GARLINGTON, LOHN & ROBINSON, PLLP, Attorneys for Montana State Fund, hereby certifies that on this 21st day of January 2005, she mailed a copy of the foregoing Status Report, postage prepaid, to the following persons:

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January 21, 2005

VIA TELEFAX AND U.S. MAIL

Patricia Kessner, Clerk
Workers' Compensation Court
P.O. Box 537
Helena, MT 59624-0537

RE: Satterlee, et al v. Montana State Fund, et al.

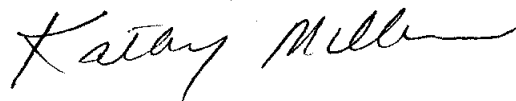
Dear Ms. Kessner:

Enclosed for filing please find the **State Fund's Status Report and Request for Status Conference** to the Court. We are sending the original in today's mail. Upon receipt, please allow the original to replace the faxed copy. If you have any questions, do not hesitate to contact us at 523-2500.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP

By


Kathy L. Miller
Legal Secretary

:klm
Enclosure