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FILED

MAY 22 2003

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKER'S COMPENSATION COURT OF THE STATE OF MONTANA

KELLY WILD and)
MARK MATHEWS,)
individually and on behalf of all)
others similarly situated,)
)
 Petitioners,)
)
 vs.)
)
 MONTANA STATE)
 COMPENSATION INSURANCE)
 FUND, LIBERTY NORTHWEST)
 INSURANCE COMPANY,)
 and all other similarly situated,)
)
 Respondents.)

WCC Number: 2001-0286
2001-0294

REPLY IN SUPPORT OF
MOTION FOR CLASS
CERTIFICATION

Liberty Northwest filed its Brief in Opposition to Motion for Class Certification. Liberty Northwest does not dispute the propriety of the Court seeking guidance from Rule 23, Montana Rules of Civil Procedure, to determine the propriety of a class action in this case. Liberty Northwest **does not challenge** the four elements required by Rule 23(a) or the two factors to be considered by Rule 23(b)(3). Both elements of Rule 23 have been met and this case would most efficiently be administered under the certification of a class action.

Each person injured due to an industrial injury or occupational disease who was, in fact, an employee denied benefits because of an Independent Contractor exemption against each insurer, agent or self insured employer who wrote insurance or adjusted claims in Montana at any time since 1996 and denied a claim based on an Independent Contractor exemption.

The Rule 23(a) elements of numerosity, commonality, typicality and adequacy of representation and Rule 23(b)(3) elements predominance and superiority have been established.

For these reasons Kelly Wild and Mark Mathews move this Court to certify this case as a class action as defined in the Class Action Petition for Hearing against the class of insurers defined therein. Order the Class Insurers to provide to counsel for petitioners a list of the names and addresses of all persons within the class definition. Order counsel for petitioners to thereafter file with the Court a proposed notice and distribution plan that provides to the class the best notice practicable. The notice and plan shall comply with Rule 23(c)(2). Order Class Insurers to file a response to the proposed notice and distribution plan. Order the counsel for petitioners to distribute the notice to the class members in accordance with the distribution plan and notify the Court of the identity of each class member.

DATED this 19th day of May 2003.

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