

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

2004 SEP 15 10 30 AM
SUPERIOR COURT

Docket No. 04-E-0208

VENISE THERESA GONYA, as representative of the Estate of Joseph E. Gonya,
deceased, individually and on behalf of all others similarly situated
and
ROXANE S. SCAIFE, as representative of the Estate of Arnold L. Stone, deceased,
individually and on behalf of all others similarly situated

v.

ROGER A. SEVIGNY, Commissioner of the State of New Hampshire Insurance
Department, in his official capacity as Insurance Commissioner and liquidator of
The Home Insurance Company

STIPULATION OF FACTS

NOW COME Venise Theresa Gonya and Roxane S. Scaife, Plaintiffs in the
above-entitled matter, by and through their attorneys, Baron & Budd, P.C. and
Watson & Lemire, P.A. and Defendant Roger A. Sevigny, Commissioner of the State
of New Hampshire Insurance Department, in his official capacity as Insurance
Commissioner and Liquidator of The Home Insurance Company ("Commissioner"),
and submit this joint statement of facts pursuant to this Court's July 27, 2004 Order.
Inclusion of a fact in this stipulation does not mean that the parties agree that the fact
is material. The parties reserve the right to assert additional facts and introduce
additional relevant evidence. The parties hereby agree and stipulate to the following
facts:

1. The Home Insurance Company ("Home") is a New Hampshire domiciled insurance company. Home wrote workers compensation, liability and other types of insurance throughout the United States.
2. Plaintiff Venise Theresa Gonya represents the Estate of Joseph E. Gonya in an action asserting tort claims. (*Venise Theresa Gonya Individually and as Personal Representative of the Heirs and Estate of Joseph A. Gonya, Deceased v. Crown Cork and Seal Company, Inc., et al.*, No. 17092*RM01 (Brazoria County District Court, State of Texas, filed August 28, 2001). Among the defendants in this tort case are Cleaver Brooks, a division of Aqua Chem, Inc., and Union Carbide. Aqua Chem, Inc., was an additional named insured on certain excess liability policies issued by Home for a number of years. Union Carbide Corp. was issued excess liability policies by Home for a number of years. While other defendants in the tort case may be Home insureds, plaintiff Gonya cannot identify those other companies at this time.
3. Plaintiff Roxane S. Scaife represents the Estate of Arnold L. Stone in an action asserting tort claims. (*Roxane S. Scaife, Individually and as Personal Representative of the Heirs and Estate of Arnold L. Stone, Deceased v. Pittsburgh Corning Corporation, et al.*, No. 99-013161-D (Dallas County District Court, State of Texas, filed Feb. 26, 1999). Among the defendants in the tort case is Cleaver Brooks, a division of Aqua Chem, Inc. Aqua Chem, Inc., was an additional named insured on certain excess liability policies issued by Home for a number of years.

While other defendants in the tort case may be Home insureds, plaintiff Scaife cannot identify those other companies at this time.

4. On June 13, 2003, an Order of Liquidation was entered by the Superior Court for Merrimack County, New Hampshire (the "Court"), placing Home in liquidation and appointing the Commissioner of Insurance of the State of New Hampshire and her successors in office as Liquidator of Home. (*In the Matter of the Liquidation of The Home Insurance Company*, Docket No. 03-E-0106.) The liquidation proceedings for Home are being conducted pursuant to the New Hampshire Insurers Rehabilitation and Liquidation Act, RSA 402-C (the "Act"). A true and correct copy of the Order of Liquidation is attached as Exhibit 1.
5. The Court issued directions concerning notice of the liquidation and claim filing deadline and the form of proof of claim in an Order Approving Notice entered on June 11, 2003. Among other things, that order approved the form of notice concerning the liquidation order and the form of proof of claim (and instructions) pursuant to RSA 402-C:26 and RSA 402-C:38. The order also gave directions for the provision of notice to potential claimants pursuant to RSA 402-C:26. A true and correct copy of the Order Approving Notice is attached as Exhibit 2.
6. Copies of the notice of liquidation, proof of claim form and instructions that were mailed are attached as Exhibits 3-5. True and correct copies of the form of publication notice and a list of the publications in which the publication notice appeared are attached as Exhibits 6 and 7.

7. In accordance with RSA 402-C:40, I, and RSA 402-C:38, I(a)(7), the proof of claim form included the following provision:

14. If you are completing this Proof of Claim as a Third Party Claimant against an insured of The Home, you must conditionally release your claim against the insured by signing the following, as required by N.H. Rev. Stat. Ann. § 402-C:40 I:

I, _____ (insert claimant's name), in consideration of the right to bring a claim against The Home, on behalf of myself, my officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives hereby release and discharge _____ (insert name of defendant(s) insured by The Home), and his/her/its officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives, from liability on the cause(es) of action that forms the basis for my claim against The Home in the amount of the limit of the applicable policy provided by The Home; provided, however, that this release shall be void if the insurance coverage provided by The Home is avoided by the Liquidator.

Claimant's signature

Date

8. The law firm of Baron & Budd, P.C., which represents Plaintiffs in the tort cases, was among the claimants' firms that were mailed notices of the liquidation and proof of claim forms. Copies of the notice of the liquidation order and claim filing deadline and the proof of claim form were mailed to Baron & Budd, P.C., on or about June 18, 2003, December 29, 2003, and March 10, 2004. No individual notice was directed to the named Plaintiffs.

9. Pursuant to the Order of Liquidation, RSA 402-C:26, II, and RSA 402-C:37, I, persons asserting claims against Home, including third party claimants, were required to file proofs of claim with the Liquidator on or before June 13, 2004. Late filed claims are subject to the provisions of RSA 402-C:37, II and III.

10. Proofs of claim submitted in the liquidation will be determined in accordance with the RSA 402-C:41 and RSA 402-C:45 and the Order