



3. Neither The Home Insurance Company ("The Home") nor The Home's Rehabilitator is a party in the Gardner Class Action. The sole defendant is Stimson Lumber Company, an Oregon corporation and a forest products manufacturer ("Stimson). The sole claim in this lawsuit is that Stimson engaged in deceptive acts and practices in making and marketing a hardboard exterior siding product, and thereby violated the consumer protection statutes of the seven states involved. Extensive discovery has taken place in the Gardner Class Action over the past several years. Tens of thousands of pages of documents have been produced by the parties. More than 40 depositions have been taken; others, including expert depositions, have been suspended because of the stay that has been imposed in the Gardner Class Action. The trial is scheduled to begin less than four months from now, on August 11, 2003.

4. Stimson is currently in a dispute with approximately ten insurers that issued policies to it during the class period in the Gardner Class Action, January 1, 1985 to the present. Of these, there are three primary insurers (of which The Home is one) and the rest are excess insurers. The three primary insurers have brought a declaratory judgment action in federal court in Oregon, entitled *The Home Indemnity Company, et al. v. Stimson Lumber Company, et al.*, U.S. District Court for the District of Oregon, Civil No. 01-CV-514-HU (the "Oregon Coverage Litigation"). The Gardner Class is not a party in that action.

5. Attached as Exhibit 2 hereto is a true copy of a "First Amended Complaint For Declaratory Relief" filed in the Oregon Coverage Litigation. All the primary carriers (including The Home) have denied coverage with respect to the Gardner Class Action. They have done so in paragraph 22 (on page 7) in the First Amended Complaint at Exhibit 2, where they allege that "they have no duty to defend and/or indemnify Stimson with respect to certain Siding Claims...." Other pleadings in the Oregon Coverage Litigation show that the "Siding Claims" referred to include the claims in the Gardner Class Action. For example, attached as Exhibit 3

hereto are true copies of two related pleadings in the Oregon Coverage Litigation, "Wausau's Memorandum And Further Opposition To Stimson's Motion To Transfer For Convenience" and an "Affidavit of Becky A. Johnson" thereto, which confirm that the term "Siding Claims" includes the claims in the Gardner Class Action.

6. Attached hereto as Exhibit 4 hereto is a true copy of a pleading in the Oregon Coverage Litigation entitled "Insurers' Joint Response To Order Of March 25, 2003." The last page of this pleading is a coverage chart showing the insurance that Stimson had during the period 1986 to 1999 and as to which there is a dispute whether there is coverage for the consumer protection claims in the Gardner Class Action. Based both on this coverage chart and also on a review of the underlying insurance policies by me and some of my co-counsel, it appears that even if coverage were ultimately found in the Oregon Coverage Litigation, The Home would have well below five percent (5%) of the estimated exposure.

7. We are advised that the three primary insurers have each separately agreed to advance Stimson's defense costs for the Gardner Class Action. However, the two primary insurers other than The Home (Wausau and California Insurance Company) state in the pleading attached hereto as Exhibit 4 (at page 2) that if The Home "ceases to participate in the defense of the pending claims, Wausau and California will share defense costs on a fifty/fifty basis."

8. The Home is not controlling Stimson's defense of the Gardner Class Action in Washington. Although documents show that The Home and the other primary insurers initially suggested counsel, Stimson is being defended in the Washington Class Action by its regular counsel, Steven H. Gurnee. Attached hereto as Exhibit 5 is a true copy of the Declaration of Steven H. Gurnee in the Gardner Class Action, in which he states (at paragraph 3) that "I currently represent Stimson Lumber Company in numerous multiparty cases throughout California" and also states (paragraph 4) "that I have been asked by the Stimson Lumber

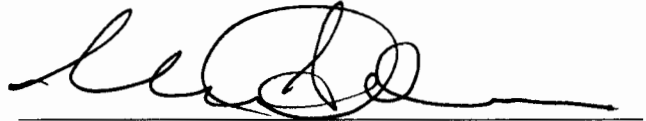
Company to represent it in this matter.” The Home does not have any responsibility to prepare for the current or future proceedings in the Washington Class Action.

9. On March 12, 2003, Stimson filed in the Washington Class Action a motion for a 90-day stay. Attached hereto as Exhibit 6 is a true copy of Stimson’s motion. Neither The Home nor The Home’s Rehabilitator filed its own motion, or joined in Stimson’s motion, or otherwise sought to intervene in the Washington Class Action. As indicated in Stimson’s motion, Stimson argued that the Rehabilitation Order issued by the New Hampshire Superior Court was entitled to “full faith and credit” and to automatic respect under the Uniform Insurers Liquidation Act, and that the Washington Superior Court was bound by the 90-day stay in paragraph (g)(1) of the New Hampshire Rehabilitation Order.

10. On April 10, 2003, the Court in the Washington Class Action issued an order granting Stimson’s motion to stay and has stayed the Washington Class Action at least through June 3, 2003. Attached hereto as Exhibit 7 is a true copy of the Washington Superior Court’s order dated April 10, 2003. Based on Stimson’s motion and the plaintiffs’ opposition to that motion, it is clear that the Washington Superior Court granted the stay based on the stay contained in the March 5, 2003 Rehabilitation Order issued by the New Hampshire Superior Court in *In The Matter of the Rehabilitation of The Home Insurance Company*, Docket No. 03-E-106. The Gardner Class did not receive notice of the New Hampshire proceeding before the Rehabilitation Order was issued.

11. Attached hereto as Exhibit 8 is a true copy of the order granting a stay issued by the federal court in the Oregon Coverage Litigation. Unlike the stay in the Washington Class

Action, this stay was granted on the direct motion of The Home itself, which is a party in the Oregon Coverage Litigation.



Michael D. Sandler

SUBSCRIBED AND SWORN TO before me this 23<sup>rd</sup> day of April, 2003, at Seattle, Washington.



Notary Public for the State of Washington  
Residing at Seattle, WA  
My commission expires: 11/1/06

