

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

**JOINT MOTION TO APPROVE AGREED
INTERLOCUTORY APPEAL STATEMENT**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company, and ACE American Reinsurance Company (collectively, the "ACE Companies"), and Benjamin Moore & Co. ("Benjamin Moore") jointly move for an order (1) vacating the Court's order of October 27, 2004 approving an interlocutory appeal statement, and (2) approving the agreed interlocutory appeal statement submitted herewith. As reasons therefore, the Liquidator, the ACE Companies, and Benjamin Moore state as follows:

1. In light of the Court's Order on Remand issued October 8, 2004, the ACE Companies filed a motion to transfer question of law for interlocutory appeal on October 21, 2004. The motion included a proposed interlocutory appeal statement. Benjamin Moore filed a joinder in the motion to transfer dated October 26, 2004.

2. On October 27, 2004, the Court issued two orders concerning the motion: (a) an order granting motion for interlocutory appeal, and (b) an order approving interlocutory appeal statement.

3. On October 29, 2004, the Liquidator filed a motion for reconsideration of the order approving interlocutory appeal statement. The motion for reconsideration included an alternative proposed interlocutory appeal statement.

4. On November 1, 2004, the ACE Companies and the Liquidator were advised that the Court was going to vacate the order approving the interlocutory appeal statement and that the Court directed the parties to confer in an effort to agree upon an interlocutory appeal statement. Counsel thereafter conferred and exchanged revised drafts of a further proposed interlocutory appeal statement.

5. The Liquidator, the ACE Companies, and Benjamin Moore have now agreed on an interlocutory appeal statement. A copy of the agreed interlocutory appeal statement is submitted as Exhibit A hereto.

6. In these circumstances, the Liquidator, the ACE Companies and Benjamin Moore jointly request the Court to enter an order (a) vacating its October 27, 2004 order approving interlocutory appeal statement, and (b) approving the agreed interlocutory appeal statement submitted herewith.

7. The ACE Companies filed the previous interlocutory appeal statement with the New Hampshire Supreme Court on October 28, 2004. The Liquidator filed a motion for remand with the Supreme Court on November 1, 2004. The ACE Companies opposed that motion that same day. If this Court grants this joint motion and approves the agreed interlocutory appeal statement, the ACE Companies will withdraw the interlocutory appeal statement previously filed with the Supreme Court and file the new approved interlocutory appeal statement with the Supreme Court, and the Liquidator will withdraw the motion for reconsideration in the Superior Court as moot and withdraw the motion for remand in the Supreme Court.

WHEREFORE, the Liquidator, the ACE Companies, and Benjamin Moore respectfully request that this Court:

- (a) Grant this Joint Motion to Approve Agreed Interlocutory Appeal Statement;

(b) Enter an order (i) vacating the October 27, 2004 order approving interlocutory appeal statement, and (ii) approving the agreed interlocutory appeal statement submitted herewith; and

(c) Granting such other and further relief as justice may require.

Respectfully submitted,

CENTURY INDEMNITY COMPANY,
ACE PROPERTY AND CASUALTY
INSURANCE COMPANY, PACIFIC
EMPLOYERS INSURANCE
COMPANY AND ACE AMERICAN
REINSURANCE COMPANY
By their attorneys,

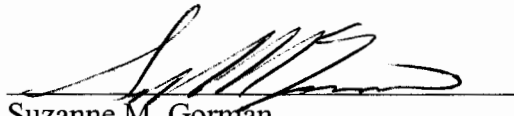
ROGER A. SEVIGNY, COMMISSIONER OF
INSURANCE FOR THE STATE OF NEW
HAMPSHIRE, AS LIQUIDATOR OF
THE HOME INSURANCE COMPANY

By his attorneys,

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By its attorneys,

A handwritten signature in cursive script that reads "Andre Bouffard" followed by a stylized flourish that appears to be "of RLS".

Andre Bouffard

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Date: November 3, 2004