

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

SWAN TRANSPORTATION COMPANY'S  
MEMORANDUM IN SUPPORT OF ITS  
REQUEST FOR ORAL ARGUMENT ON PENDING MOTION

Swan Transportation Company ("Swan Transportation") f/b/o Swan Asbestos and Silica Settlement Trust (the "Trust") (collectively, "Swan") respectfully submits this memorandum in support of its request for oral argument pursuant to New Hampshire Superior Court Rule 58 in connection with its July 6, 2009 "Motion to Recommit and Review the Referee's Order on the Merits filed June 18, 2009." For the reasons set forth below, Swan respectfully submits that the Court should grant its request for oral argument which was made in its July 6, 2009 Motion.

First, oral argument will allow the parties to provide the Court with any background information the Court may find useful in connection with Swan's objection to the Liquidator's decision to approve only \$500,000 of Swan's \$30 million proof of claim. Unlike typical insurance coverage disputes, at issue here is the Liquidator's failure to consider at all the merits of the actual exhaustive proof of claim presented by the policyholder for full policy limits based upon submitted insurance policies and claims. Instead, the Liquidator's determination exclusively relied upon a repudiated settlement agreement never assumed by the estate.

Second, oral argument may assist the Court by clarifying the legal issues before it and the law related thereto. This case involves complicated legal issues, including:

- The repudiated settlement agreement's unenforceability due to The Home Insurance Company's and the Liquidator's failure to perform;

- The Liquidator's improper exclusive reliance upon a settlement agreement that it did not seek to assume or obtain approval; and
- The Referee's error in allowing the Liquidator to wholly disregard Swan's exhaustive submissions and effectively un-submit Swan's Proof of Claim.

Swan respectfully submits that oral argument may assist with the Court's examination of and decision on these issues.

For the aforementioned reasons, Swan respectfully requests that the Honorable Court:

1. Grant the request for oral argument which was made in Swan's July 6, 2009 "Motion to Recommit and Review the Referee's Order on the Merits filed June 18, 2009;" and
2. Grant such further relief that is just and proper.

Dated: May 27, 2011

Respectfully submitted,

SWAN TRANSPORTATION COMPANY  
F/B/O SWAN ASBESTOS AND SILICA  
SETTLEMENT TRUST

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BEFORE THE COURT-APPOINTED REFEREE  
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY  
DISPUTED CLAIMS DOCKET

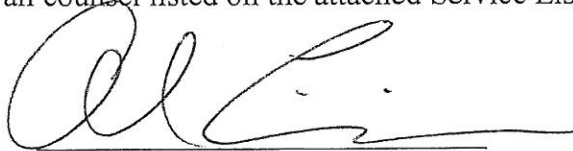
CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of Swan Transportation Company's Memorandum In Support Of Its Request For Oral Argument was served by First Class Mail on the following:

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In addition, copies were served on all counsel listed on the attached Service List.

Dated: May 27, 2011



Andrew B. Livernois

THE STATE OF NEW HAMPSHIRE

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Docket No. 03-E-0106

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