

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

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

**JOHNSON & JOHNSON'S MOTION TO HOLD IN ABEYANCE
THE LIQUIDATOR'S MOTION FOR APPROVAL OF SETTLEMENT
AGREEMENT WITH JOHNSON & JOHNSON**

Johnson & Johnson ("J&J") moves that the Court enter an order in the form submitted herewith holding in abeyance for sixty (60) days from the date of the order the Liquidator's Motion for Approval of Settlement Agreement with J&J (hereafter, "Liquidator's Motion"). As reasons therefore, J&J states as follows:

1. J&J recently entered into a settlement agreement with The Home Insurance Company in Liquidation ("Home") to resolve the proofs of claim submitted by J&J relating to J&J's talc liabilities. The settlement was executed on December 2, 2020. The Liquidator's Motion was filed on December 3, 2020.

2. J&J learned recently that Imerys Talc Vermont ("Imerys"), J&J's former talc supplier that declared bankruptcy in early 2019, is asserting it has rights under certain policies issued to J&J, including, potentially, policies issued by Home Insurance Company and City Insurance Company (the "Home policies"). The bankruptcy is pending in Delaware Bankruptcy Court.

3. Imerys made the assertion that it has rights under policies issued to J&J in a December 10, 2020 letter to plaintiff-insurers involved in an insurance coverage litigation pending in New Jersey (the "coverage litigation"). *See* Affidavit of Thomas W. Ladd in Support

of Motion to Hold in Abeyance the Liquidator's Motion for Approval of Settlement Agreement with Johnson & Johnson ("Ladd Aff.") ¶ 5, Exhibit A. That coverage action was brought against J&J by a number of J&J's insurers, seeking a declaratory judgment that they do not owe coverage under their policies to J&J for its talc losses. Home is not a party to the case.

4. In its December 10th letter, Imerys demands that the plaintiff-insurers seek a stay of the coverage litigation. *Id.* Imerys asserts that continuation of the coverage litigation may violate the automatic stay Order in place in the bankruptcy proceedings. *Id.*

5. To J&J's knowledge, Imerys has not filed a proof of claim in the instant liquidation proceedings. Additionally, the Home policies are not at issue in the coverage litigation. However, Imerys has identified the Home policies as assets of its bankruptcy estate. *See* Ladd Aff. ¶ 7, Exhibit B.¹

6. Accordingly, J&J believes it would be prudent to hold the Liquidator's Motion in abeyance for sixty (60) days from the date of the order. J&J anticipates it will receive within that time further direction from the Court in New Jersey and/or the Bankruptcy Court in Delaware regarding a stay of the New Jersey coverage action or approval of the Home settlement pending before this Court.

7. J&J has conferred with the Liquidator regarding the motion and the Liquidator has no objection to the relief sought in the motion.

WHEREFORE, J&J respectfully requests that this Court:

A. Grant this Motion;

B. Enter an Order in the form submitted herewith holding in abeyance for sixty (60) days from the date of the order the Liquidator's Motion; and

¹ J&J does not concede that Imerys may impede J&J's ability to secure coverage under policies issued to J&J, including the Home policies.

C. Grant such other and further relief as justice may require.

Dated: December 22, 2020

Respectfully submitted

/s/ Thomas W. Ladd

Thomas W. Ladd (*admitted pro hac vice*)

Brett D. Kahn

Jennifer O. Farina

MCCARTER & ENGLISH LLP

Four Gateway Center

100 Mulberry Street

Newark, NJ 07102

T: 973.622.4444

F: 973.624.7070

tladd@mccarter.com

bkahn@mccarter.com

jfarina@mccarter.com

and

David Himelfarb (NH Bar No. 19754)

MCCARTER & ENGLISH LLP

265 Franklin Street

Boston, MA 02110

Newark, NJ 07102

T: 617.449.6500

F: 617.607.9200

dhimelfarb@mccarter.com

Certificate of Service

I hereby certify that a copy of the foregoing Motion to Hold in Abeyance the Liquidator's Motion for Approval of Settlement Agreement with J&J and Affidavit of Thomas W. Ladd in Support of Motion was served this 22nd day of December, 2020 by First-Class Mail, postage prepaid to all persons on the attached service list.

/s/ Thomas W. Ladd
Thomas W. Ladd

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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

Docket No. 217-2003-EQ-00106

SERVICE LIST

J. Christopher Marshall
Civil Bureau
New Hampshire Department of Justice
33 Capital Street
Concord, NH 03301-6397

J. David Leslie
Eric A. Smith
Rackemann Sawyer & Brewster
160 Federal Street
Boston, MA 02110-1700

Gary S. Lee, Esq.
James J. DeCristofaro, Esq.
Kathleen E. Schaaf, Esq.
Morrison & Foerster
1290 Avenue of the Americas
New York, NY 10104-0050

David M. Spector, Esq.
Dennis G. LaGory, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, IL 606067

Samantha D. Elliot, Esq.
214 North Main Street
Concord, NH 03301

David H. Simmons, Esq.
Mary Ann Etzler, Esq.
Daniel J. O'Malley, Esq.
deBeaubien, Knight, Simmons, Mantzaris & Neal
332 North Magnolia Avenue
P.O. Box 87
Orlando, FL 32801

Richard Mancino, Esq.
Willkie Farr & Gallagher, LLP
787 Seventh Avenue
New York, NY 10019

Joseph G. Davis, Esq.
Willkie Farr & Gallagher, LLP
1875 K Street, N.W.
Washington, DC 20006

Albert P. Bedecarre, Esq.
Quinn Emanuel Urguhart Oliver & Hedges LLP
50 California Street, 22nd Floor
San Francisco, California 94111

Jeffrey W. Moss, Esq.
Morgan Lewis & Bockius, LLP
One Federal Street
Boston, Massachusetts 02110

Gerald J. Petros, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, Rhode Island 02903

Robert M. Horkovich, Esq.
Robert Y. Chung, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, New York 10020

John A. Hubbard
615 7th Avenue South
Great Falls, Montana 59405

Paul W. Kalish, Esq.
Ellen M. Farrell, Esq.
Timothy E. Curley, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N. W.
Washington, DC 20004-2595

Harry L. Bowles
306 Big Hollow Lane
Houston, Texas 77042

Gregory T. LoCasale, Esq.
White and Williams, LLP
One Liberty Place, Suite 1800
Philadelphia, Pennsylvania 19103-7395

Kyle A. Forsyth, Esq.
Commercial Litigation Branch/Civil Division
United States Department of Justice
P.O. Box 875
Washington, DC 20044-0875

W. Daniel Deane, Esq.
Nixon Peabody LLP
900 Elm Street, 14th Floor
Manchester, New Hampshire 03861

Joseph C. Tanski, Esq.
John S. Stadler, Esq.
Nixon Peabody LLP
100 Summer Street
Boston, Massachusetts 02110

Steven J. Lauwers, Esq.,
Michael S. Lewis, Esq.
Rath Young Pignatelli
One Capital Plaza
Concord, New Hampshire 03302-1500

Robert E. Murphy, Esq.
Michael J. Tierney, Esq.
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101

Mark J. Andreini, Esq.
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190

Paul A. Zevnik, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Michael Y. Horton, Esq.
Morgan, Lewis & Bockius LLP
300 South Grant Avenue, Suite 4400
Los Angeles, CA 90071

Keith A. Dotseth, Esq.
Hilary Loynes Palazzolo, Esq.
Larson & King, LLP
30 East 7th Street, Suite 2800
St. Paul, MN 55101

Michael J. Tierney
95 Market Street
Manchester, NH 03101

J. Chase Johnson, Esq.
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956

Christopher J. Valente, Esq.
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111