

**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 ASSENTED-TO MOTION TO VACATE THE COURT'S  
JANUARY 19, 2021 ORDER APPROVING SETTLEMENT AGREEMENT AND 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 vacating this Court's January 19, 2021 Order and holding in abeyance for sixty (60) days from the date of J&J's proposed 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 agreement was executed on December 2, 2020. The Liquidator's Motion was filed on December 3, 2020.

2. Following the settlement, J&J learned that Imerys Talc Vermont ("Imerys"), J&J's former talc supplier, which 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 Vacate The Court’s January 19, 2021 Order Approving Settlement Agreement and to Hold in Abeyance the Liquidator’s Motion for Approval of Settlement Agreement with Johnson & Johnson (“Ladd Aff.”), ¶ 5, Exh. 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. Ladd Aff. ¶ 7, Exh. B.<sup>1</sup>

6. On December 22, 2020, J&J filed a Motion to Hold in Abeyance the Liquidator’s Motion for Approval of Settlement with J&J with supporting documents (the “J&J’s Motion”). As noted in J&J’s Motion, the Liquidator had no objection to J&J’s Motion. On January 19, 2021, the Court entered an Order approving the Liquidator’s Motion. Ladd Aff., Exh. C. It is unclear if this Court had an opportunity to consider J&J’s Motion before the entry of the January 19, 2021 Order.

7. In view of the foregoing, J&J believes it would be prudent to vacate this Court’s January 19, 2021 Order and hold the Liquidator’s Motion in abeyance for sixty (60) days from the date of the proposed order accompanying this Motion. J&J anticipates it will receive within that time further direction from the Court in New Jersey and/or the Bankruptcy Court in

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<sup>1</sup> 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.

Delaware regarding a stay of the New Jersey coverage action or approval of the Home settlement pending before this Court.

8. Counsel for J&J has conferred with counsel for the Liquidator, and the Liquidator assents to the relief sought in this motion. Ladd Aff., ¶ 10.

WHEREFORE, J&J respectfully requests that this Court:

- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith: (i) vacating its January 19, 2021 Order approving the Liquidator's Motion; and (ii) holding the Liquidator's Motion in abeyance for sixty (60) days from the date of the proposed order accompanying this Motion; and
- C. Grant such other and further relief as justice may require.

Dated: January 28, 2021

Respectfully submitted

/s/ Thomas W. Ladd  
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**Certificate of Service**

I hereby certify that a copy of the foregoing Assented-To Motion to Vacate The Court's January 19, 2021 Order Approving Settlement Agreement and to Hold in Abeyance the Liquidator's Motion for Approval of Settlement Agreement with J&J together with Affidavit of Thomas W. Ladd in Support of Motion were served this 28th day of January, 2021, by e-filing and regular mail to all persons on the attached service list.

/s/ Thomas W. Ladd

Thomas W. Ladd

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