

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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

**In Re Liquidator Number:** 2009-HICIL-46  
**Proof of Claim Number:** CLMN380502-01  
**Claimant Name:** Mariana Lanc  
**Claimant Number:** 145-0100-105  
**Policy or Contract**  
**Number:** \_\_\_\_\_  
**Date of Loss:** \_\_\_\_\_

**LIQUIDATOR'S OBJECTION TO CLAIMANT'S  
MOTION REQUESTING DEFENDANTS' DISCOVERY**

Roger A. Seigny, Insurance Commissioner, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby objects to the Claimant's Motion Requesting Defendants' Discovery dated November 19, 2010.<sup>1</sup>

1. During the Structuring Conference in this matter, the Liquidator took the position that the dispositive question in this matter was whether the Claimant's third party claim against Home was precluded by the judgment dismissing the Claimant's actions against Home's insureds with prejudice. Claimant stated that she might need discovery. To provide for orderly proceedings and to make the Liquidator's position clear in advance of any such request, the Liquidator offered to file the first Section 15 submission. The Referee issued a Structuring Conference Order dated August 4, 2010 establishing a schedule under which the Liquidator filed the first brief and Claimant was then to respond. If Claimant believed discovery was necessary, the order provided Claimant could also file a motion seeking discovery. The schedule was extended by order dated October 10, 2010.

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<sup>1</sup> The Claimant's request was mailed on November 19, 2010. However, the Liquidator's counsel only received the request on November 29, 2010.

2. On September 9, 2010, the Liquidator filed the Liquidator's Section 15 Submission setting forth the reasons the Claimant's claim in the Home liquidation is barred by the judgment of dismissal with prejudice in favor of Home's insureds (which was affirmed on appeal).

3. The Claimant has now moved for discovery. The motion makes 44 requests directed to "the defendants," most of which are for categories of requested documents and several of which are in the form of interrogatories. The 44 requests appear to concern the course of the Claimant's 1984-1985 divorce proceeding (the action in which Home's insureds allegedly committed malpractice). Claimant's motion does not indicate how the documents or information sought are relevant to the issues presented in the Liquidator's Section 15 Submission.

4. The Liquidator objects to the Claimant's motion for discovery as irrelevant, overly broad and unduly burdensome. Most importantly, the discovery sought has no bearing on the preclusion issues presented in the Liquidator's Section 15 Submission. If those issues are dispositive, as the Liquidator contends, then there is no reason to permit any discovery into the conduct of the divorce proceeding or, indeed, the two actions against Home's insureds that were terminated by the judgment of dismissal with prejudice. The only matters pertinent to the preclusion issues are the pleadings in the New York actions against the Home's insureds (to identify the claims made), the New York court's decisions and judgment, and the decisions on appeal. Those documents were provided as exhibits to the Liquidator's Section 15 Submissions.

5. Since the discovery requested is not relevant to the potentially dispositive preclusion issues, the Claimant's motion should be denied or deferred. The preclusion issues will be ripe for decision when the Claimant submits her brief on December 10, 2010. In the event that the Referee concludes that the preclusion issues are dispositive, Claimant's motion

will be moot. In the event that those issues are not dispositive, the Liquidator will address the relevance of the requests, as well as burden and overbreadth issues, in light of the Referee's decision.

6. For the foregoing reasons, the Referee should deny or defer the Claimant's motion requesting defendants' discovery.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE  
COMMISSIONER, SOLELY AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

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November 30, 2010

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Objection to Claimant's Motion Requesting Defendants' Discovery was emailed and sent by first class mail to the Claimant on November 30, 2010.



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Eric A. Smith