

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: 2008-HICIL-41
Proof of Claim Number: CLMN712396
Claimant Name: Harry L. Bowles
Policyholder Account: Class II

ORDER

On August 8, 2009, Mr. Bowles filed a Motion to abort the schedule set forth in the Referee's Order of June 15, 2009 based on the need for further discovery and proceedings either in this forum or in Texas. The Motion also seeks further discovery from the Liquidator. The Liquidator objects to all requests. The Liquidator first argues that Mr. Bowles has not set forth a basis for reconsideration of the Referee's June 15, 2009 Order, but the Liquidator does not object to a reasonable extension of time for Mr. Bowles to file his brief beyond August 14, 2009. The Liquidator also argues that the discovery requested has either already been requested, or is superfluous to the issues in this matter.

The discovery now requested by Mr. Bowles includes a request for "POCs submitted by any Insureds after June 13, 2003 and before August 1, 2005." Mr. Bowles previously made a discovery request for "Any POCs...made by any insureds in Home Insurance Policy No. LPL-F871578." The Liquidator responded to the prior discovery request. To the extent the new discovery request is limited to the insureds under the same policy, the Liquidator has responded. To the extent the discovery request is aimed at other insureds under other policies, the request is not related to the issues in this matter and it is denied.

The other discovery request in the August 8, 2009 filing by Mr. Bowles is for the contents of the January 10, 1994 letter from Home to Bishop in response to Bishop's December 29, 1993 letter to Home. Despite its assertion that this request goes beyond the Referee's order regarding discovery, the Liquidator has provided a copy of the letter to Mr. Bowles. Therefore, this request is moot.

The Referee has reviewed Mr. Bowles' pleadings and considered his arguments for aborting the Order dated June 15, 2009. The Order dated June 15, 2009 as to the issues to be addressed stands. However, because the dates set by which pleadings were to be filed have passed, a new schedule is set forth below.

Schedule

Mr. Bowles has until September 14, 2009 to file a brief addressing these issues:

- A. Whether the disallowance of Mr. Bowles' claim by the Liquidator was proper based on the language of the Home policy issued to Bishop, Peterson and Sharp, P.C.;

- B. Whether Mr. Bowles is entitled to recovery on his claim that Home improperly provided a defense to Bishop, Peterson and Sharp, P.C.; and
- C. Whether the principle of res judicata bars any claim by Mr. Bowles.

The Liquidator may file a brief addressing the same issues by October 14, 2009. Should Mr. Bowles choose to file a reply brief, he must do so by October 26, 2009. Any reply by the Liquidator must be filed by November 6, 2009.

If either party would like to present oral argument on the three issues to be briefed, that party may file a motion requesting that such a hearing be scheduled. Any motion for oral argument must be filed by October 26, 2009. Any hearing regarding these issues will take place in the Merrimack County Superior Court.

So ordered.

August 19, 2009
Date

Melinda S. Gehris
Referee, Melinda S. Gehris