

**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: 2006-HICIL-18 and 21(Consolidated)  
Proof of Claim Number: INTL278096  
INTL278096-02  
Claimant Name: Winterthur Swiss Insurance Company

**CENTURTY INDEMNITY COMPANY'S REQUEST FOR LEAVE  
TO FILE SUR-REPLY**

Century Indemnity Company ("CIC") hereby requests leave to submit a sur-reply to the reply submission of Winterthur Swiss Insurance Company ("Winterthur") in the above-captioned disputed claim proceedings.

On November 27, 2006, the Referee directed Winterthur to submit a reply brief to allow "for full development of this issue [i.e., of the definition, construction and London Market custom of the term 'Ultimate Nett Loss']." On December 8, 2006, Winterthur submitted the reply opinion of Bryan Young (the "Reply Opinion"), who had previously provided an opinion in support of Winterthur's initial written submission in these disputed claim proceedings.

In recognition of the fact that Section 15(a) of the governing Claims Procedures Order does not permit briefing in disputed claim proceedings beyond the parties' initial written submissions unless specifically requested by the Court or the Referee, CIC hereby requests leave to file a brief sur-reply to the Reply Opinion.

In the Reply Opinion, Mr. Young raises a number of points regarding the Ultimate Nett Loss clause ("UNL") to which CIC should be entitled to respond. It would be

disproportionate, indeed unfair, to allow Winterthur the opportunity to submit two legal opinions on the construction and interpretation of the UNL and CIC only one. This is especially true where Mr. Young in effect asks questions of Peter Taylor, CIC's counsel—e.g., what reason there is to refer to legal costs in the UNL policy limits? Mr. Taylor should be allowed to answer Mr. Young directly. Indeed, if, as the Referee ruled, Winterthur's reply aids in the "full development" of definition, construction and London Market custom and practice of the UNL, a sur-reply from CIC would be equally helpful (if only to further clarify for Mr. Colin Edelman, the English law expert appointed in these disputed claim proceedings, the points of divergence between Winterthur and CIC).

CIC respectfully suggests that if the Referee is uncertain as to whether a sur-reply from CIC would help elucidate certain issues surrounding the UNL, that she ask Mr. Edelman whether he would find a sur-reply from CIC useful in his consideration of these issues.

For the foregoing reasons, CIC respectfully requests that the Referee permit CIC to submit a sur-reply in response to the Reply Opinion in these disputed claim proceedings.

Dated: December 13, 2006  
New York, New York

LOVELLS

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