

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Docket No. 2004-0729

In The Matter Of The Liquidation Of The Home Insurance Company

MOTION FOR WITHDRAWAL OF PREVIOUSLY FILED INTERLOCUTORY
APPEAL STATEMENT AND SUBSTITUTION OF RECENTLY APPROVED AND
ASSENTED-TO SUBSTITUTE INTERLOCUTORY APPEAL STATEMENT

NOW COME Century Indemnity Company, ACE Property Casualty and Insurance Company, Pacific Employers Insurance Company, and ACE American Reinsurance Company (collectively the ACE Companies) and state:

1. On October 28, 2004, the ACE Companies filed with this Court an Interlocutory Appeal Statement approved by the Merrimack County Superior Court.
2. On October 29, 2004, the Liquidator filed a Motion for Reconsideration of the Interlocutory Appeal Statement with the Merrimack County Superior Court and on November 1, 2004, the Liquidator filed a Motion for Remand with this Court. The ACE Companies opposed the Motion for Reconsideration at the Superior Court and opposed the Motion for Remand in this Court.
3. Subsequent to the above date, the Superior Court presiding Justice indicated an intent to vacate the previously approved Interlocutory Appeal Order and requested the parties confer to seek agreement on an Assented-To Interlocutory Appeal Statement.

4. The Liquidator does not oppose the transfer of the legal question which was the subject matter of the Interlocutory Appeal Statement.

5. Pursuant to the Superior Court's instructions, the parties conferred and on November 3, 2004, filed a Joint Motion to Approve an Agreed Interlocutory Appeal Statement. The signatories to said Joint Motion were the Liquidator, the ACE Companies and Benjamin Moore & Company.

6. By Order of November 5, 2004, the Superior Court (a) vacated its previous Interlocutory Appeal Statement, and (b) approved the new Interlocutory Appeal Statement attached hereto.

WHEREFORE, the ACE Companies respectfully move this Court to:

A. Accept its withdrawal of the previously filed Interlocutory Appeal Statement;

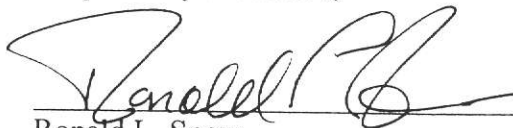
B. Accept its withdrawal of opposition to the Liquidator's Motion for Remand;

C. Accept the Liquidator's request for withdrawal of its Motion for Remand which the ACE Companies understand will be filed promptly upon execution of the new Assented-To Interlocutory Appeal Statement.

Dated:

11/8/04

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that I served a copy of the foregoing on the following counsel via First Class mail on November 8, 2004.

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