

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In the Matter of the Liquidation of  
The Home Insurance Company

Docket No.

2004 MAY 11 P 3: 02

NH SUPERIOR COURT  
MERRIMACK COUNTY  
CONCORD, NH

**MOTION TO WAIVE FILING OF MOTION TO STAY  
IN THE SUPERIOR COURT**

Defendants, Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company and ACE American Reinsurance Company (collectively, "the ACE Companies") by its attorneys, Orr & Reno P.A., move this Court, pursuant to temporary Supreme Court Rule 7-A, to waive the requirement set forth in Supreme Court Rule 7-A to first file a motion to stay in the Superior Court. In support of this Motion, the ACE Companies respectfully state:

(1) Benjamin Moore & Co. ("Benjamin Moore") has filed a Rule 7 Notice of Mandatory Appeal from the decision of the Merrimack County Superior Court (McGuire, J.) approving the Liquidator's Motion For Approval of an Agreement and Compromise with AFIA Cedents. Pursuant to Rule 7, the ACE Companies are a party to this appeal.

(2) Benjamin Moore's appeal divests the Superior Court of jurisdiction to rule on a motion to stay. Accordingly, the ACE Companies have filed the motion to stay with this Court, and they respectfully request that the Court waive the requirement in Supreme Court Rule 7-A that a motion for stay must be filed with the Superior Court first.<sup>1</sup>

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<sup>1</sup> If this Court rules that the Benjamin Moore appeal does not divest the Superior Court of jurisdiction, the ACE Companies will promptly file a stay motion before Judge McGuire.

WHEREFORE, the ACE Companies respectfully request this Court:

- A. To waive the filing of a Motion to Stay with the Merrimack County Superior Court; and
- B. To grant the Motion to Stay; and
- C. To grant such other and further relief as this Court deems just and proper.


Respectfully submitted,

ACE Companies

By Their Attorneys

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Dated: May 11, 2004  
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By:   
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