

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In the Matter of the Liquidation of
The Home Insurance Company

Docket No. 2004-0319

**MOTION TO EXPEDITE CONSIDERATION OF APPEAL
AND TO SUSPEND RULES**

Defendants, Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company and ACE American Reinsurance Company (collectively, "the ACE Companies") by their attorneys, Orr & Reno P.A., move this Court to expedite consideration of the appeal filed pursuant to Supreme Court Rule 7 by Benjamin Moore & Co. and to suspend its Rules to permit the court to expeditiously hear and decide the issues raised by the appeal. Pursuant to Supreme Court Rule 7 (4), the ACE Companies are parties to this appeal, and the ACE Companies also seek relief from the Order ("the Order") of the Merrimack County Superior Court (McGuire, J.) approving the Liquidator's Motion for Approval of an Agreement and Compromise with AFIA Cedents. In support of this Motion, the ACE Companies respectfully state:

(1) Pursuant to Supreme Court Rule 1, this Court, or any single justice of this Court, may suspend the requirements of the Rules in the interest of expediting a decision, or for any other good cause shown.

(2) As set forth in the ACE Companies' Motion to Stay filed with the Merrimack County Superior Court on May 12, 2004, a copy of which is attached, the

Liquidator has indicated that he intends to begin to implement the agreement and compromise approved by the lower court (the "Proposed Agreement"). If the Liquidator begins to implement the Proposed Agreement and related scheme of arrangement in the English courts prior to this Court's decision on the merits of this appeal, the ACE Companies will be irreparably injured and the ultimate relief they seek in this appeal will not be preserved. *See* Motion for Stay at 9.

(3) To aid the Court in expediting this appeal, copies of all pleadings filed by the ACE Companies will be electronically served or hand delivered to counsel of record and hand-delivered to this Court. Counsel for ACE Companies are prepared to brief the critical issues presented by the Notice of Appeal within 5 business days of the granting of this Motion, and respectfully request that oral argument be scheduled as soon as practicable thereafter.

(4) The Liquidator has been consulted with respect to this motion, and the ACE Companies have not been able to obtain the Liquidator's concurrence. Counsel for Benjamin Moore & Company has assented to the relief requested herein.

WHEREFORE, the ACE Companies respectfully request this Court:

- A. To grant this Motion For Expedited Consideration of this Appeal and to Suspend Rules; and
- B. To grant such other and further relief as this Court deems just and proper.

