

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

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N.H. INSURANCE DEPARTMENT

Roger A. Sevigny, Insurance Commissioner
As the Liquidator of the Home Insurance
Company,

Plaintiff,

v.

Employers Insurance of Wausau, a
Mutual Company,

Defendant

Civil No. 03-501-JM

MOTION FOR REMAND

NOW COMES the Plaintiff, by and through his counsel, the Office of the Attorney General, and moves to remand these proceedings to the New Hampshire Superior Court where it originated, stating as follows:

1. Plaintiff, Roger A. Sevigny, the Insurance Commissioner of the State of New Hampshire acting as the liquidator for an insolvent insurance company brought this action in the Merrimack County Superior Court against Employers Insurance of Wausau ("EIW") seeking a declaratory judgment regarding EIW's ability to effectuate non-mutual triangular offsets of certain reinsurance obligations with the insolvent insurance company.

2. On or about November 21, 2003, EIW filed its Petition for Removal in the federal district court for the district of New Hampshire under 28 U.S.C. §§1441(a) and (b) on the ground that this matter could have been filed in district court under either the court's diversity jurisdiction or under the court's federal-question jurisdiction.

3. The Plaintiff now moves to remand the matter back to state court on the ground that the federal court should abstain from exercising jurisdiction under the *Burford* and *Colorado River* abstention doctrines.

4. The Plaintiff has filed a separate memorandum of law which sets forth the facts and legal authority in greater detail and which the Plaintiff incorporates herein by reference.

WHEREFORE, Plaintiff prays that the Court enter an order remanding this matter to the Merrimack County Superior Court, and granting such other and further relief as may be just.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER

By and through his counsel,

PETER W. HEED
Attorney General

Date: January 5, 2004

//Peter C. L. Roth\\

Peter C.L. Roth (Bar. No. 14395)
Senior Assistant Attorney General
Andrew B. Livernois (Bar No. 14350)
Assistant Attorney General
N.H. Department of Justice
33 Capitol Street
Concord, N.H. 03301
603-271-3650