

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No. 03-#-0106

In the Matter of the Liquidation of
The Home Insurance Company

03/26 P 2:15

**CENTURY INDEMNITY COMPANY'S RESPONSE TO THE LIQUIDATOR'S
MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT AND MUTUAL
RELEASE WITH PNEUMO ABEX LLC AND PEPSI-COLA METROPOLITAN
BOTTLING COMPANY**

Century Indemnity Company, as successor to CIGNA Specialty Insurance Company (formerly known as California Union Insurance Company)(“CIC”), by its attorneys, Orr & Reno, P.A., respectfully submits this Response to the Liquidator’s Motion for Approval of Settlement Agreement and Mutual Release with Pneumo Abex LLC and Pepsi-Cola Metropolitan Bottling Company (the “Settlement”), stating:

1. CIC’s predecessor, California Union Insurance Company, issued excess liability insurance policies to IC Industries, Inc., predecessor to Pepsi-Cola Metropolitan Bottling Company. These policies also insured Abex Corporation, a then subsidiary of IC Industries, Inc.
2. Pneumo Abex LLC contends that it is the successor to Abex Corporation and is therefore entitled to coverage under the policies issued to IC Industries, although CIC disputes this contention and does not admit that Pneumo Abex LLC has any rights under the policies it issued to IC Industries.

3. However, to the extent that CIC has made and/or in the future will make payments to either Pneumo Abex LLC, or Pepsi-Cola Metropolitan Bottling Company, or both, it is CIC's position that nothing in the Liquidator's Settlement affects, alters or in any way negates any current or future contribution or subrogation claim against the Home estate in connection with those payments. (These rights would apply equally to any other insurer, such as Pacific Employers Insurance Company, asserting contribution or subrogation rights against the Home estate.)

4. The Liquidator has recognized that such claims by CIC are preserved. In his motion for the approval of a separate settlement (with the Sauget Estate and Others), the Liquidator stated:

Century Indemnity Company has submitted a contribution claim in respect of the policies. Unlike third party claimants' claims, a contribution claim is independent of the insured's claims (although derived from the same underlying circumstances), and it will remain to be determined on its own merits in the liquidation proceeding.

Liquidator's Motion for Approval of Settlement Agreement with the Sauget Estate and Others at ¶5 n.1.

5. As a result, any CIC claim for contribution or subrogation in connection with payments made to Pneumo Abex LLC and/or Pepsi-Cola Metropolitan Bottling Company will remain to be determined on its own merits in the Liquidation, and it is CIC's understanding that the Court's approval of the Liquidator's Motion would not affect, alter or in any way negate any contribution or subrogation claim against the Home estate in connection with Pneumo Abex LLC or Pepsi-Cola Metropolitan Bottling Company.

6. Finally, CIC reserves all of its rights including any rights against all parties; nothing in this statement shall be deemed an admission by CIC or a waiver by CIC of any rights or remedies including, without limitation, claims or defenses.

Respectfully submitted,

Century Indemnity Company,

By its attorneys,

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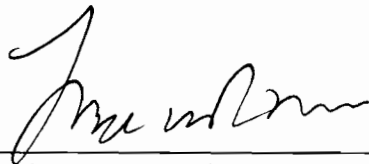
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August 26, 2011

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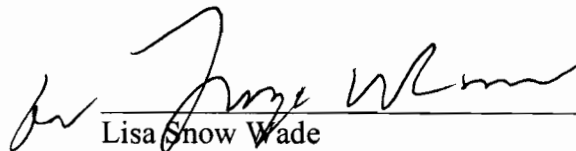
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CERTIFICATE OF SERVICE

I, Lisa Snow Wade, certify that on this 26th day of August, 2011, copies of the foregoing have been sent via US mail to counsel on the attached service list.


Lisa Snow Wade

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