

MERRIMACK SUPERIOR
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MERRIMACK, SS.

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

Docket No. 217-2003-EQ-00106

**In the Matter of the Liquidation of
The Home Insurance Company**

**Nationwide's Sur Reply in Support of Objection
and Joinder to Sur Replies Filed by Other Objectors to the Liquidator's
Motion for Approval of Claim Amendment Deadline**

Nationwide Mutual Insurance Company ("Nationwide") objects to the proposed amendment deadline because: (1) it does not balance the competing interests under the liquidation statute; (2) it does not promote settlement or closure and instead unfairly extinguishes legitimate claims; and (3) the record does not include sufficient admissible evidence to allow this Court to approve a deadline with such harsh consequences. Nothing in the Liquidator's Response to AFIA Cedents' Objections (the "Response"), in which it purports to address Nationwide's Objections, adequately answers the concerns raised by Nationwide. In particular, the Liquidator fails to provide this Court with adequate and admissible evidence justifying its sweeping request to cut-off any valuation for the future claims (IBNR) it hopes to extinguish by its Motion. Indeed, the Liquidator openly concedes in the Response that it does not even know the amount of IBNR his Motion would bar; nor the reinsurance estate assets that would be necessarily lost in the process.

In short, the Liquidator's Motion falls far short of what would be required for the Court to be justified in granting the dramatic relief sought.

But, what is most curious about the Response is the fact that the information which is missing is the very information which should be readily available to the Liquidator and the Home's reinsurer, ACE/Chubb. Its failure to offer this Court a full and fair description of the impact of its Motion ought to cause this Court some considerable pause. The Court may justifiably ask: who's interests are primarily being benefited by the pending Motion, since the Motion does not, on its face, appear likely to expand the assets of the estate?

In addition to raising its own objections, Nationwide also hereby formally joins in the objections and arguments raised by the other Objectors, including specifically, the positions raised in the Sur Reply in Support of Objection to the Liquidator's Motion for Approval of Claim Amendment Deadline filed by Indemnity Marine Assurance Co., Nederlandse Reassurantie Groep NV, NRG Victory Reinsurance Limited, NRG Fenchurch Insurance Company Ltd, New Zealand Reinsurance Company, Tenecom Limited, Underwriters at Lloyds of London, Winterthur Swiss Ins. Co. and World Auxiliary Corp. Ltd., and the Sur-Reply in Support of Their Objection to the Liquidator's Motion for Approval of Claim Amendment Deadline filed by Zurich Insurance PLC, German Branch and Wurttembergische Versicherung AG.

In particular, Nationwide joins the other Objectors in calling for: (1) the Court to deny the Liquidator's Motion on the basis that it is premature and unsupported by

admissible, relevant evidence; (2) requiring the Liquidator to formulate a procedure for estimating the IBNR related to the AFIA Cedents, including Nationwide, through the use of an independent third-party actuary (as opposed to any IBNR calculations prepared by ACE/Chubb, a party with perhaps the most to financially gain by the Court granting the Motion); and, (3) if the Court is inclined to proceed with establishing a Claim Amendment Deadline, that it hold such deadline specifically in abeyance as to the AFIA Cedents, including Nationwide, recognizing that these particular creditors are entitled to administrative costs which were granted Class I priority status by the New Hampshire Supreme Court. *In re: the Liquidation of the Home Insurance Company*, 154 N.H. 472 (2006) (where the Court openly acknowledged that the status between the Home Estate and the AFIA Cedents uniquely "benefits the Class II claimants to Home's estate since it increases the likelihood that their claims will be paid" and that the ongoing relationship was needed "to assure that the largest single asset of the estate was not lost." *Id.* at 490.

Respectfully submitted,

**NATIONWIDE MUTUAL INSURANCE
COMPANY**

By Its Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a copy of the foregoing was served upon the persons named on the attached Service List by first class mail, postage prepaid.



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