

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

BEFORE THE COURT APPOINTED REFEREE

In the Matter of the Liquidation of The Home Insurance Company

Disputed Claims Docket

In Re: 2013-HICIL-56
Claimant: Flexible Products Company
Claimant No.: INSU389339-01

Structuring Conference Order

A telephonic conference was held in this disputed claims proceeding on July 15, 2013. At issue was the extent of discovery to be done initially, and whether the parties should brief the issue of duty to defend prior to discovery and prior to briefing any other issues.

Flexible Products asserts that the Referee should whether Home had a duty to defend Flexible Products in the underlying claims before turning to any other issues. Flexible Products believes the issue of duty to defend can be determined without any discovery and should be determined before the Referee considers any other issues. The Liquidator initially proposed discovery on four issues before briefing. At a minimum, the Liquidator believes the parties must address the choice of law along with the duty to defend. The Liquidator also believes the issues of late notice should be addressed in the first instance.

After reviewing the proposals of both parties and considering the suggestions made in the telephonic conference, the Referee will address three issues initially, before discovery takes place. The Referee will address the issues of: (1) choice of law; (2) duty to defend; and (3) late notice. Flexible Products has filed a lengthy pleading with its mandatory disclosures. The additional pleadings to be filed on these issues are due as follows: August 19, 2013 - Liquidator's Brief due; September 19, 2013 - Flexible Products Additional Brief due; September 30, 2013 - Liquidator's Reply due.

If either party requests oral argument on these issues, the party will inform the clerk of that request by October 4, 2013. Such telephonic oral argument will take place on October 16, 2013 beginning at 11:00 eastern time. If neither party requests oral argument on the issues, the Referee will determine whether the hearing will take place as scheduled. The Clerk will inform the parties of the Referee's decision by October 8, 2013.

So ordered.

July 17, 2013
Date:

Melinda S. Gehris
Referee, Melinda S. Gehris