

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

BEFORE THE COURT-APPOINTED REFEREE  
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY  
DISPUTED CLAIMS DOCKET

In Re Liquidator Number: 2011-HICIL-50  
2011-HICIL-51

Proof of Claim Number: GOVT 18901-11  
GOVT 18901-12

Claimant Name: Arizona Property and Casualty Insurance  
Guaranty Fund

**LIQUIDATOR'S MOTION FOR LEAVE TO FILE SUR-REPLY BRIEF**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), moves for leave to file a sur-reply brief and exhibits to address one factual argument raised by claimant Arizona Property and Casualty Insurance Guaranty Fund ("Arizona Fund" or "Fund") in its reply Memorandum ("Reply"). The proposed sur-reply with exhibits is attached. As reasons therefor, the Liquidator states:

1. In accordance with the Referee's orders, the Arizona Fund filed its opening brief and exhibits on July 27, 2012; the Liquidator filed his § 15 submission with exhibits on August 29, 2012; and the Fund filed the Reply on September 13, 2012. The Referee's orders do not provide for additional filings, so the Liquidator moves for leave to file a sur-reply brief.

2. In the Reply, the Arizona Fund contends that the Liquidator has made "inaccurate factual assertions." Reply 6, 7. By making this allegation and related characterizations of the Liquidator's exhibits and its own exhibits, the Fund implies – without saying directly – that the Fund devoted time and effort to reviewing policy information and considering policy defenses as

to each of the forty lawsuits based upon individualized analysis of the underlying allegations and facts. See Reply at 6-8.

3. The Liquidator requests leave to file a sur-reply brief with three exhibits to address this point. The Liquidator is concerned that the question of whether and to what extent the Fund expended effort to conduct individualized coverage analysis will become a matter of disputed inference and characterization during argument before the Referee. While it may not be possible to avoid that entirely, the Liquidator submits that a brief, written argument together with the three additional exhibits is the most direct way to address the question of individualized coverage analysis.

4. The three exhibits consist of documents from the Arizona Fund's files. Together with the previously submitted exhibits, they demonstrate that the Arizona Fund has not devoted effort to individualized coverage analysis, and only minimal effort to coverage regarding the claims as a group. The exhibits fill out the record and are best presented in advance of argument. The sur-reply brief frames the issue and points to the pertinent parts of the exhibits.

5. The Liquidator's proposed sur-reply is short – only 5 pages – and focused on the question of the Fund's coverage analysis. The other positions advanced in the Arizona Fund's Reply will be addressed at argument on November 8, 2012.

6. Counsel for the Liquidator has conferred with counsel for the Arizona Fund, and the Fund does not assent to the relief requested in this motion.

WHEREFORE, the Liquidator requests that the Referee grant this motion for leave to file the Liquidator's Sur-Reply and its exhibits.

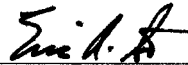
Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE COMMISSIONER  
OF THE STATE OF NEW HAMPSHIRE, SOLELY AS  
LIQUIDATOR OF THE HOME INSURANCE  
COMPANY,

By his attorney,

MICHAEL A. DELANEY,  
ATTORNEY GENERAL,

J. Christopher Marshall  
NH Bar ID No. 1619  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, NH 03301-6397  
(603) 271-3650



---

J. David Leslie  
NH Bar ID No. 16859  
Eric A. Smith  
NH Bar ID No. 16952  
Rackemann, Sawyer & Brewster, P.C.  
160 Federal Street  
Boston, MA 02110  
(617) 542-2300

October 3, 2012

Superior Court Rule 57-A Certification

I hereby certify that I have made a good faith attempt to obtain concurrence in the relief sought in this motion.



---

Eric A. Smith

Certificate of Service

I hereby certify that the foregoing Liquidator's Motion for Leave to File Sur-Reply Brief including attachments was served by email on counsel for the Arizona Property and Casualty Insurance Guaranty Fund this 3d day of October, 2012.



---

Eric A. Smith