

2008 APR 23 10 28 30

MERRIMACK COUNTY SUPERIOR COURT

JOHN A. HUBBARD,

Claimant,

and

THE HOME INSURANCE COMPANY  
IN LIQUIDATION

Liquidator.

Cause No. CDV-2007-745

OBJECTION TO NOTICE  
OF REDETERMINATION

COMES NOW, John A Hubbard, Claimant respectfully Objects to the Notice of Re-  
Determination, dated March 31, 2008 as follows:

HISTORY

The Home Insurance Company in Liquidation (Home) issued its Classification  
Determination on January 21, 2008, listing my claim as a Class V or Class VI.

On February 11, 2008 in the above-referenced action, Mr. Hubbard filed a Request for  
Review disputing the determination of a Class V creditor under Proof of Claim number:

CLMN703351-01, and challenging that Mr. Hubbard's claim merits coverage under a Class II  
(Policy Related Claims) classification. Mr. Hubbard's Request for Review was filed with The  
Home Insurance Company in Liquidation, located in Manchester, NH.

On or about April 2, 2008, Mr. Hubbard received Home's Notice of Redetermination dated  
March 31, 2008. The Notice of Redetermination cites Home Insurance Company in Liquidation's

1 position that, "claims are not covered under the policy issued by Home to Carl Weismann &  
2 Sons".

3 **ARGUMENT**

4 Mr. Hubbard has no judgment against the liquidator rather with an insured, which would  
5 constitute classification under Class II, pursuant to RCA 402-C: 44, II. It is Mr. Hubbard's  
6 contention that his claim is not a Residual Classification but Class II, which establishes liability  
7 claims against insureds as a Class II policy related claim.

8 RCA 402-C: 44, Order of Distribution  
9 II. POLICY RELATED CLAIMS.  
[ ] and liability claims against insureds [ ].

10 Further, in its Notice of Redetermination dated March 3, 2008, Home states that in its  
11 policy issued to Carl Weissman & Sons the following exclusion applied:

12 *"[ ](j) to bodily injury to any employee of the insured arising out of and in the*  
13 *course of his employment by the insured or to any obligation of the insured to*  
14 *indemnify another because of damage arising out of such injury; but this exclusion*  
15 *does not apply to liability assumed by the insured under an incidental contract;".*  
Emphasis added.

16 In the instant case, Home has failed to indicate whether an incidental contract exists between  
17 Home and Carl Weissman & Sons. If an incidental contract exists, then the exclusion Home relies  
18 upon must not apply.

19 Home's reference to denial letters dated February 4, 1991, and April 20, 1990, and  
20 reference to Home's Declaratory Judgment have never been provided or made available to the Mr.  
21 Hubbard; therefore, Home's assertion that Mr. Hubbard should be aware of their contents is  
22 invalid.

23 The reviewing entity of this claim fails to recognize there was an amended complaint filed  
24 in State District Court, cause # BDV-90-067, wherein John Hubbard was allowed to proceed to  
25

1 trial after the Court ruled in his favor on Weissman's motion for summary judgment (see  
2 attached). The law in effect at the time allowed Mr. Hubbard to proceed to trial. As the reviewing  
3 entity will see, the allegations were amended and this cause would have gone to trial had Carl  
4 Weissman & Son's Inc. not declared bankruptcy. Mr. Hubbard was not represented by counsel  
5 when this action was initially filed nor when the denial letters of February 4, 1991 and April 20,  
6 1990 were issued by Home Insurance Company; regardless, Home was compelled to reassess its  
7 position after the filing of the amended complaint.

8 After filing against Home in Federal District Court, Mr. Hubbard was aware of issues that  
9 would be raised regarding coverage and was well prepared to address the exclusions provided in  
10 the Notice of Redetermination, along with other issues relating to Home's coverage of  
11 Weissman's. See attachment to Mr. Hubbard's Claim.

12 This case along with the above-referenced case were not heard on the merits, due to  
13 Weissman's bankruptcy and Home's liquidation. Mr. Hubbard has been left without an arm for  
14 over 20 years without ANY form of satisfaction.

15 The merits of Mr. Hubbard's claim have been fully established; therefore, his claim should  
16 receive a priority classification.

17 **CONCLUSION**

18 For the reasons stated herein, Mr. Hubbard's classification should be re-determined from a  
19 Class V or Class VI classification to a Class II classification.

20 DATED this 27<sup>th</sup> day of May, 2008.

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24 John A. Hubbard  
25 John A. Hubbard, Claimant

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**CERTIFICATE OF MAILING**

I do hereby certify that a true and correct copy of the within and forgoing was placed in the U.S. Mail, postage prepaid, on the 27<sup>th</sup> day of May, 2008, addressed to the following individuals at the following addresses:

The Home Insurance Company in Liquidation  
c/o Peter Bengelsdorf  
PO Box 1720  
Manchester, NH 03105-1720

John A. Hubbard  
John A. Hubbard, Claimant

**MERRIMACK COUNTY SUPERIOR COURT**

JOHN A. HUBBARD,

Claimant,

and

THE HOME INSURANCE COMPANY  
IN LIQUIDATION

Liquidator.

Cause No. CDV-2007-745

**PRAECIPE**

TO THE CLERK OF THE SUPERIOR COURT, please file the enclosed Objection to Notice of Redetermination in the above-captioned matter. Also, please return a conformed copy to the Claimant in the enclosed self-addressed stamped envelope.

Should you experience any difficulties with this request, please do not hesitate to contact the undersigned at: (406)761-6089.

DATED this 27<sup>th</sup> day of MAY, 2008.

John A Hubbard  
John A. Hubbard, Claimant

MAY 29 11 30 AM '08

**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720  
Manchester, New Hampshire 03105-1720  
Tel: (800) 347-0014

POC #: CLMN703351-01

Amount Allowed: \$ 0

John Hubbard  
615 7th Ave So  
Great Falls , MT 59405

2003 MAY 23 P 2:30

**ACKNOWLEDGMENT OF RECEIPT**

I hereby acknowledge receipt of the Notice of Redetermination as a Class V Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Redetermination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the Redetermination.

I have not assigned any part of this claim.

I have not made any other recoveries with respect to this claim.

I have not sought and do not intend to seek any other recoveries with respect to this claim.

I have made recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

Same name as above.  
New name John Hubbard

Same address as above  
615 7th Ave So.  
Great Falls, MT 59405

New address 615 7AV So Great Falls, MT 59405

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This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: John A. Hubbard

Printed Name: John A. Hubbard

Title: Claimant

Date: 05-13-08