

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel S. Ario,  
Acting Insurance Commissioner of the  
Commonwealth of Pennsylvania,

Plaintiff,

v.

Reliance Insurance Company,

Defendant.

Docket No. 269 MD 2001

2008 MAR 13 PM 1:41  
OFFICE OF THE CLERK  
COMMONWEALTH COURT OF PENNSYLVANIA

In re: *Warrantech Entities and Butler Financial Solutions, LLC*

**JOINT STATUS REPORT**

Joel S. Ario, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, in his capacity as the Statutory Liquidator of Reliance Insurance Company (In Liquidation) (“The Liquidator”), and Warrantech Consumer Product Services, Inc., Warrantech Home Service Company, Warrantech Home Assurance Company, Help Desk, Inc., WCPS of Florida, Inc., Warrantech Automotive, Inc., Warrantech Automotive of Florida, Inc. and Butler Financial Solutions, LLC, a/k/a Butler Financial Solutions, Inc. (collectively, “Warrantech”), submit the following Joint Status Report in response to the Court’s March 6, 2008 Order:

This matter arises out of a dispute regarding the priority level of certain claims under 40 P.S. § 221.44. Warrantech filed 36 Proofs of Claim (“POCs”), on or before December 31, 2003, following the Commonwealth Court’s issuance of an Order of Liquidation of Reliance Insurance Company on October 3, 2001. On August 22, 2005, the Liquidator issued Notices of Determination (“NODs”) fixing the class of Warrantech’s POCs for distribution under 40 P.S. § 221.44(e). Warrantech filed objections to Reliance’s NODs on October 19, 2005, arguing that

the policies at issue are insurance policies and that the priority level of distribution for claims arising from these insurance policies is (b) and is governed by 40 P.S. § 221.44(b). The Liquidator responded to the objections on November 18, 2005, arguing that the contracts at issue are properly classified as reinsurance or surety agreements under 40 P.S. § 221.44, and that they were properly assigned priority level (e).

On March 24, 2006, Referee Joseph Scott O’Keefe (“the Referee”) was appointed “to hear objections, to submit findings of fact, where appropriate and necessary, and to issue recommended decisions” regarding the POCs. Warrantech filed a Motion for Summary Reversal of Notices of Determination on June 19, 2006 arguing that the language of the contracts warranted the assignment of priority level (b) under 40 P.S. § 221.44. The Liquidator argued in its Opposition to Motion for Summary Reversal of Notices of Determination, filed on July 17, 2006, that priority level (e) under 40 P.S. § 221.44 is proper for the contracts at issue.

The Referee informed the parties on November 28, 2006 that he did not believe that he had the authority to make a Summary Reversal of the Notices of Determination. On November 29, 2006, counsel for Warrantech wrote to the Referee arguing that the undisputed facts were enough for the Referee to decide the Motion for Summary Reversal and alternatively requesting guidance on what further submissions could be made to the Referee to allow him to make a Report and Recommendation on the matter. Counsel for the Liquidator wrote to the Referee on December 1, 2006 and took the position that a determination on the merits of the case requires discovery and the presentation of evidence at a hearing. On December 6, 2006, the Referee requested that the parties submit a proposed scheduling order concerning the submission of any further evidence either party wishes to present, including whatever discovery the parties deem necessary in order to prove their respective cases.

Following an April 20, 2007 conference call with the parties, the Referee denied Warrantech's request for summary reversal by letter on April 23, 2007. Thereafter, the parties submitted a Scheduling Order to the Referee and discovery began. Warrantech served its discovery requests upon the Liquidator on July 31, 2007. The Liquidator served written discovery requests upon Warrantech on September 12, 2007. The Liquidator served written responses to Warrantech's discovery requests and an initial production of documents on January 7, 2008.

The Liquidator and Warrantech recently agreed to a revised Scheduling Order. The revised Scheduling Order was signed by the Referee on February 29, 2008. Fact discovery is currently ongoing. All document production is to be completed by March 31, 2008. All fact discovery is to be completed by May 29, 2008. Initial expert reports are to be served on or before June 20, 2008. Rebuttal expert reports are to be served on or before July 11, 2008. A hearing is scheduled on or about September 4, 2008. Attached as Exhibit A to this Joint Status Report is a copy of the above-referenced Scheduling Order.

Additionally, the parties have scheduled a telephonic status conference with the Referee for April 7, 2008 at 1:00 P.M.

Respectfully submitted,

PEPPER HAMILTON LLP

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On behalf of The Liquidator

REED SMITH LLP

By: [Signature]  
Timothy P. Law, Esquire  
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and

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On behalf of Warrantech

Dated: March 13, 2008

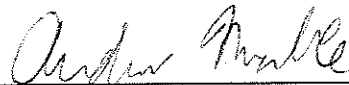
**CERTIFICATE OF SERVICE**

I, Andrew M. Marble, hereby certify that on March 13, 2008 the foregoing Joint Status Report was served upon all parties on the Master Service List via Notice of Filing.

Additionally, the foregoing Joint Status Report was served upon the following:

**Via Federal Express:**

Timothy P. Law, Esquire  
Reed Smith LLP  
2500 One Liberty Place  
1650 Market Street  
Philadelphia, Pennsylvania 19103



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ANDREW M. MARBLE

# **EXHIBIT A**

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO,  
Commissioner of the Commonwealth of  
Pennsylvania,  
In his official capacity as Liquidator of  
RELIANCE INSURANCE COMPANY

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 M.D. 2001

Re: *In re: Warrantech Consumer Products, Inc., Butler Financial Solutions LLC and their affiliates (collectively "Warrantech")/Reliance Insurance Company (In Liquidation)*

**SCHEDULING ORDER**

And NOW this 29<sup>th</sup> day of February, 2008, upon agreement of the parties, the following scheduling Order shall govern the above-captioned action.

I. DISCOVERY

All document production is to be completed by March 31, 2008.

All fact discovery in this case is to be completed on or before May 30, 2008. The Pennsylvania rules of Civil Procedure shall govern discovery with the following additional guidelines and limitations:

(a) Depositions

- (i) Each deposition is limited to 7 hours, to be conducted in a single day, unless good cause is shown why additional time is required.
- (ii) Deposition by notice of party witnesses is permissible.
- (iii) Depositions of party witness shall be conducted in the same county where the deponent works or resides unless the parties agree otherwise.
- (iv) Third Party Depositions: The parties shall produce the last known addresses of relevant third party witnesses, including former employees of

the parties, and their affiliates, to the extent such information is in their possession.

- (b) Interrogatories and Requests for Admission. Each party is limited to a maximum of 15 interrogatory questions and 20 requests for admission, including subparts, unless good cause is shown why more are needed.
- (c) Any disputes regarding discovery shall be submitted to the Referee for resolution

2. EXPERT REPORTS

- (a) Initial expert reports, if any, are to be served on or before June 20, 2008
- (b) Rebuttal expert reports, if any, are to be served on or before July 11, 2008.

3. HEARING

A hearing is hereby scheduled on or about September <sup>4</sup> 2008. The testimony at the hearing shall be recorded by a court reporter. The parties shall share the costs of the court reporter equally.

4. FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (a) The parties shall each submit Proposed Findings of Fact and Conclusions of Law within thirty days following the conclusion of the hearing. Proposed findings of fact shall be supported by citations to the record. Proposed conclusions of law shall be supported by legal authority.
- (b) The parties shall each submit responses to the Proposed Findings of Fact and Conclusions of Law of the party within three weeks of receipt of the other party's Proposed Findings of Fact and Conclusions of Law.

  
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JOSEPH SCOTT O'KEEFE, Referee

Date: February 29, 2008