

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel S. Ario,	:	
Acting Insurance Commissioner of the	:	No. 269 M.D. 2001
Commonwealth of Pennsylvania,	:	
Plaintiff	:	
	:	
V.	:	
	:	POC Nos. 1963438 and 1963481
Reliance Insurance Company,	:	
Defendant	:	

**IN THE MATTER OF OBJECTION BY ST. FRANCIS HOSPITAL TO NOTICE OF DETERMINATION TO PROOF OF CLAIM (“POC”) NOS. 1963438 AND 1963481
REFEREE FINDINGS AND RECOMMENDATIONS**

G. Alan Bailey, Esquire, duly appointed Referee in the Matter of Objection by St. Francis Hospital to Notice of Determination to Proof of Claim Numbers 1963438 and 1963481 hereby recommends to the Honorable Judges of the Commonwealth Court of Pennsylvania that, since the Claimant has withdrawn with prejudice its Objection to the Liquidator’s Notice of Determination, the Liquidator’s Notice of Determination be affirmed and in support thereof presents the following:

BACKGROUND

1. By Order of the Commonwealth Court of Pennsylvania (“Court”) dated October 3, 2001 (“Liquidation Order”), Reliance Insurance Company (“Reliance”) was found to be insolvent and placed into liquidation. M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (“Liquidator”) was appointed Liquidator of Reliance.¹
2. By Order of the Court dated September 9, 2002 (“Claims Filing Order”) the Honorable James Gardner Colins, established claims filing procedures, claims’ filing deadlines and dispute resolution procedures for claims against the Reliance.
3. St. Francis Hospital (referred to herein as “Claimant” or “Hospital”), originally submitted Proof of Claim Number 1963438 (“POC 1963438”) seeking coverage for a potential claim against the Hospital resulting from the death of an infant treated at Hospital and later died at another medical facility.
4. Claimant, originally submitted Proof of Claim Number 1963481 (“POC 1963481”) seeking coverage for a potential claim against the Hospital resulting from a surgical procedure involving a fourteen year old patient at Hospital.
5. In response to POC 1963438 the Liquidator issued a Notice of Determination (“NOD”) to Claimant, dated March 13, 2008, setting a claim priority level of (g). This NOD did not fix a claim valuation.

¹ Joel S. Ario has been appointed by the Governor to serve as Insurance Commissioner, and, as such, replaces Ms. Koken as the statutory Liquidator.

“Referee Decision Exhibit A”

6. In response to POC 1963481 the Liquidator issued a Notice of Determination (“NOD”) to Claimant, dated March 13, 2008, setting a claim priority level of (g). This NOD did not fix a claim valuation.
7. On May 7, 2008 Claimant filed separate Objections to the Notices of Determination (“Objections”).
8. By Order of the Court dated May 16, 2008 the undersigned was appointed Referee to provide findings of fact and a recommendation to the Court regarding the issues raised by Claimant.
9. On June 5, 2008 counsel for the Liquidator contacted the Referee and advised that the parties had resolved this dispute indicating that it was the intent of the Claimant to file a Praeceptum to Withdraw its Objections.
10. On June 6, 2008 the Claimant, with the authorization of the Liquidator, filed with the Referee a Praeceptum to Mark Withdrawn Objection of St. Francis Hospital to Notice of Determination on Proof of Claim Numbers 1963438 and 1963481 (“Praeceptum to Withdraw” see attached)..
11. In light of the above facts, and in consideration of the Claimant’s Praeceptum to Withdraw, it is recommended to this Honorable Court that the Claimant’s Objections to the Liquidator’s NOD be marked withdrawn with prejudice, and that this matter be dismissed.

WHEREFORE, in that the Claimants have filed a Praeceptum to Mark Withdrawn the Objection of St. Francis Hospital to Notice of Determination for Proof of Claim Numbers 1963438 and 1963481 it is hereby respectfully recommended that the Objection of St. Francis Hospital to Notice of Determination on Proof of Claim Numbers 1963438 and 1963481 be marked withdrawn with prejudice and that the Liquidator’s Notice of Determination to Claimant’s Proof of Claim Numbers 1963438 and 1963481 setting a claim priority level of (g) and a claim value of \$0.0 be affirmed, and that this matter be dismissed.

Respectfully Submitted



G. Alan Bailey, Referee

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

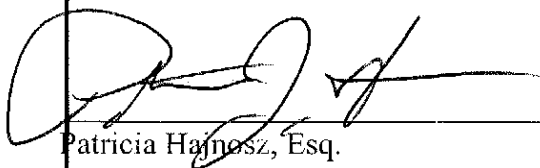
RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

**PRAECIPE TO MARK WITHDRAWN THE OBJECTION OF
ST. FRANCIS HOSPITAL TO NOTICE OF DETERMINATION
ON PROOF OF CLAIM NOS. 1963428 AND 1963481**

Upon agreement of the parties, St. Francis Hospital and Joel S. Ario, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, through their respective counsel, please mark the following Objection to Notice of Determination to Proof of Claim Nos. 1963428 and 1963481 withdrawn with prejudice.

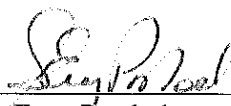


Patricia Hajnosz, Esq.
Vice President, Legal Affairs
St. Francis Hospital
100 Port Washington Boulevard
Roslyn, New York 11576

Attorney for St. Francis Hospital

Dated: May __, 2008

June 4, 2008



S. Emy Foulad
Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, Pennsylvania 19102

Attorneys for Joel S. Ario, Acting Insurance
Commissioner of Pennsylvania

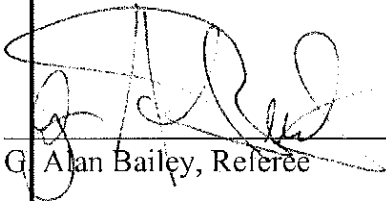
Dated: May 29, 2008

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel S. Ario,	:	
Acting Insurance Commissioner of the	:	No. 269 M.D. 2001
Commonwealth of Pennsylvania,	:	
Plaintiff	:	
	:	
VI.	:	
	:	POC Nos. 1963438 and 1963481
Reliance Insurance Company,	:	
Defendant	:	

NOTICE TO PARTIES

As set forth in the Commonwealth Court Claims Filing Order of September 9, 2002, exceptions, if any, to the Referee's recommendations shall be filed with the Commonwealth Court of Pennsylvania within fifteen (15) days after service of the Referee's Recommendations. Exceptions should be accompanied by a supporting memorandum of law. Failure to file timely exceptions to the Referee's Recommendations shall be deemed a waiver of any and all exceptions and bars Claimant from raising any issues which could have been raised as exceptions.


G. Alan Bailey, Referee