

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE :

Reliance Insurance Company
In Liquidation

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No. 1 REL 2001

ARAMARK CORPORATION'S RESPONSE IN OPPOSITION TO THE LIQUIDATOR'S APPLICATION TO ESTABLISH A CLAIMS BAR DATE

Aramark Corporation ("Aramark"), by and through its undersigned counsel, submits this Response in Opposition to the Application to Establish a Claims Bar Date filed by Michael F. Consedine, Insurance Commissioner for the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator ("Liquidator"). The Liquidator's Application to Establish a Claims Bar Date requests a claims bar date ("Bar Date") that would prohibit the filing of a Proof of Claim ("POC") for a reopened workers' compensation ("WC") claim on or after the Bar Date. As set forth more fully below, a reopened WC claim is not a new claim. Rather, it is the continuation of a WC claim that previously accrued. Therefore, Aramark respectfully requests that the Liquidator's Application to Establish a Claim Bar Date be denied, or alternatively, that the Liquidator's proposed Claims Bar Date Order be amended to permit the filing of POCs relating to reopened WC claims after the Bar Date. In support thereof, Aramark states as follows:

Background

Aramark is a Delaware corporation, with headquarters in Philadelphia, Pennsylvania, and was insured by Reliance Insurance Company or one of its affiliates (collectively, "Reliance") from May 1, 1989 until August 10, 2000. During that period, Reliance issued various workers'

compensation, general liability and automobile liability policies to Aramark (the "Reliance Policies"). Aramark was the policyholder under each of the Reliance Policies.

In or about 1999, Aramark became concerned about Reliance's ability to cover claims that were or would become payable by Reliance under the Reliance Policies. Therefore, in or about 1999, the workers' compensation policies that Aramark purchased from Reliance were amended in every state to include a \$500,000 deductible (the "deductible"), except in states that did not permit the application of a deductible to a workers' compensation policy, in which states policies providing first dollar coverage were issued (the "Guaranteed Cost Policies").

As a result of these changes to the Reliance Policies, beginning in 1999, Aramark was obligated to fund up to the first \$500,000 in workers' compensation benefits payable to or on behalf of Claimants¹ under the workers' compensation policies issued to Aramark by Reliance and Reliance was obligated to pay workers' compensation benefits to Claimants for amounts above the deductible, except in the states where Guaranteed Cost Policies were issued. Upon information and belief, Reliance paid Aramark no return premium for Aramark's assumption of the obligation to pay claims within the deductible.

After entrusting its workers' compensation, general liability and automobile liability insurance needs to Reliance for more than eleven (11) years, and after paying millions of dollars in premium for such protection, Aramark found itself without the full benefits of the insurance protection for which it had bargained when Reliance was declared insolvent on October 3, 2001. Since that date, Aramark has been forced to incur tremendous costs in time, money and manpower to respond to the loss of its insurance protections. The Liquidator's proposed Bar

¹ Some workers' compensation benefits are paid directly to the Claimant and some benefits are paid to other persons, for example, doctors who have provided health care services to the Claimant. Hereafter, for ease of reference, references to payment of workers' compensation benefits to the Claimant also includes benefits paid on behalf of the Claimant.

Date, which will preclude the filing of POCs relating to reopened WC Claims will disadvantage Aramark even further.

Reopened Workers Compensation Claims Should Not be Barred

The Liquidator acknowledges that WC claims develop very differently from other long-tail lines of business and states that most of the known WC claims would be considered “Complete Claims” or “Unresolved Claims” because they have either been resolved or because payments for indemnity, medical costs and expenses on non-settled WC claims can continue for many years into the further, often for the lifetime of the claimant. See Liquidator’s Application to Establish a Claims Bar Date and For Approval of Notice (hereinafter “Application”), at ¶ 21 (emphasis added). The Liquidator believes that it will be able to process “Unresolved Claims” under POCs filed prior to the Bar Date by “estimating the present value of the stream of future payments for indemnity, medical costs and expenses, and issuing appropriate NODs.” See Application, at ¶ 21.

The Liquidator fails to address the fact that some known WC claims that are currently closed and may be considered a “Completed Claim” as defined by the Liquidator can be reopened by the injured worker. In general, WC claims become closed as a result of an award, a settlement with the injured worker or due to inactivity of treatment. However, an injured worker may reopen his or her closed WC claim for purposes of seeking additional compensation and/or medical benefits because the original compensable injury has recurred or worsened. Some state statutory laws provide time limitations within which a WC claim may be reopened. See, e.g., N.J. Stat. Ann. § 34:15-51 (within two years from the last payment). Other states have no time limitations on when an injured worker may reopen a WC claim. See, e.g., Del. Code Ann. tit. 19 § 2347.

Reopened WC claims should not be subject to the Bar Date because they are not new claims. A reopened WC claim involves the continuation of a known injury that previously accrued and gave rise to the initial WC claim. Aramark is currently funding sixty-three (63) open WC claims under the Reliance Policies. Of these sixty-three (63) WC claims, forty-one (41) or 65% are reopened WC claims. Aramark WC Claims will continue to be reopened. Four (4) Aramark WC Claims have been reopened in 2014, and nineteen (19) WC claims have reopened since 2009. If the Liquidator's Claims Bar Date Order is entered as proposed, Aramark will be precluded from filing a POC for WC claims that are reopened after the Bar Date and will be exposed to potentially having to fund these reopened WC claims well into the Reliance layer.

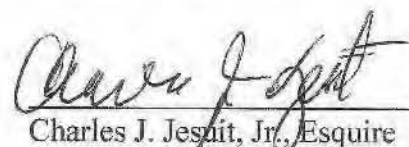
Conclusion

WHEREFORE, for all of the foregoing reasons, Aramark respectfully requests that the Liquidator's Application to Establish a Claim Bar Date be denied. Alternatively, Aramark respectfully requests that the Liquidator's proposed Claims Bar Date Order be amended to permit the filing of POCs for reopened WC claims after the Bar Date, thereby allowing the post Bar Date reopened WC claims to share in any distribution from the assets of the Reliance Estate.

Respectfully submitted,

COZEN O'CONNOR

BY:



Charles J. Jesuit, Jr., Esquire
Attorney I.D. No. 91163
1900 Market Street
Philadelphia, PA 19103
(215) 665-2000

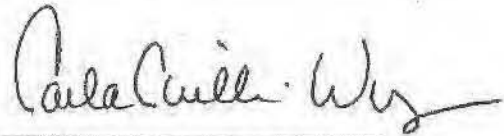
Attorneys for Aramark Corporation

Dated: September 19, 2014

VERIFICATION

I verify that the statements of fact contained in Aramark Corporation's Response in Opposition to the Liquidator's Application to Establish a Claims Bar Date are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

BY:



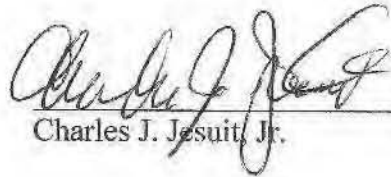
CARLA CIRELLI WYNN
Associate Vice President
Strategic Claims Management
Aramark Corporation

Dated: September 19, 2014

CERTIFICATE OF SERVICE

I, Charles J. Jesuit, Jr., hereby certify that on this 19th day of September, 2014, a true and correct copy of Aramark Corporation's Response in Opposition to the Liquidator's Application to Establish a Claims Bar Date was served in accordance with Pa. R.A.P. Nos. 121 and 3784 upon all parties on the attached Master Service Parties List by first class U.S. Mail.

Dated: September 19, 2014



Charles J. Jesuit, Jr.

**Master Service List
Parties**

IN RE: Reliance Insurance Company In Liquidation
No. 1 REL 2001 (Commonwealth Court of Pennsylvania)

Preston M. Buckman, Esquire, (717) 787-6009
Department Counsel for Insurance
Governor's Office of General Counsel
Commonwealth of Pennsylvania
Insurance Department
Office of the Chief Counsel
Capitol Associates Building
901 North 7th Street
Harrisburg, PA 17102
Phone: (717) 787-6009
Fax: (717) 772 4543
E-mail: pbuckman@pa.gov
(Attorneys for the Pennsylvania
Insurance Department)

Marilyn K. Kincaid, Esquire, (215) 864-4205
Reliance Insurance Company
(in Liquidation)
Three Parkway
5th Floor
Philadelphia, PA 19102
Phone: (215) 864-4205
Fax: (215) 864-4105
E-mail: marilyn.kincaid@relianceinsurance.com
(Attorney for Reliance Insurance
Company (in Liquidation))

Frank P. DeGiulio, (215) 625-9900
Charles P. Neely
Palmer Biezup & Henderson LLP
190 North Independence Mall West
Suite 401
Philadelphia, PA 19106
Phone: (215) 625-9900
Fax: (215) 625-0185
e-mail: fpd@pbh.com
cneely@pbh.com
(Counsel for Republic Western Insurance Company)

Timothy J. O'Driscoll, (215) 988-2700
Thomas L. Mueller
Drinker Biddle & Reath LLP
One Logan Square
Suite 2000
Philadelphia, PA 19103
Phone: (215) 988-2700
Fax: (215) 988-2757
Timothy.ODriscoll@dbr.com
Thomas.Mueller@dbr.com
(Counsel for Aurora National Life Assurance
Company)