

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

RECEIVED AND FILED
PHILADELPHIA
COMMONWEALTH COURT
OF PENNSYLVANIA
6/17/02 10:57 AM '02

ORDER

AND NOW, this ____ day of _____, 2002, upon consideration of the Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Liquidator of Reliance Insurance Company, the Liquidator's Petition to Approve Form and Manner of Service is GRANTED. It is hereby ORDERED that:

1. The Case Management Order entered by this Court on July 30, 2001 shall remain in effect in all respects, with the exception of service by the Liquidator upon the Master Service List ("MSL").

2. With respect to service upon the MSL by the Liquidator, the Court's Case Management Order is amended as follows:

a. When the Liquidator files a document with this Court in the above-captioned matter, the Liquidator shall also electronically serve the document on the MSL parties by posting the document on the Reliance Documents website, <<http://www.reliancedocuments.com>>, which is maintained by the Liquidator. The Liquidator shall send, by facsimile, a Notice of Filing to the parties listed on the MSL informing them that the filing has been made.

b. The Liquidator shall transmit the Notice of Filing within twenty-four hours of filing a document with the Court.

c. The date of filing of all documents shall be determined by the Court's time-stamp on each filing. All time requirements hereunder shall be computed by reference to the time-stamp of each filing and in accordance with the provisions of Rule 106 of the Pennsylvania Rules of Civil Procedure.

d. The Notice of Filing provided by the Liquidator shall contain the following information:

- 1) The title and/or a short description of the document that was filed by the Liquidator in the Commonwealth Court in this matter.
- 2) Notification of when the document was filed with the Court, as indicated by the time-stamp on the filing.
- 3) Directions on how the MSL party may obtain, download

and/or print a copy of the electronically posted filing from the Reliance Documents website,

<<http://www.reliancedocuments.com>>

- 4) A representation that the document filed will be available on the Reliance Documents website within two business days from the date of the filing with the Court. If a MSL party is unable to obtain a copy of the filing from the Reliance Documents website, for any reason, the Liquidator shall, upon request, provide traditional additional service of the filing to the requesting party.
 - 5) The telephone and facsimile numbers of the Reliance Clearinghouse will be included in the Notice of Filing to assist those parties unable to obtain a copy of the filing from the Reliance Documents website. A party may request that a copy of the filing be provided by U.S. Mail, and the Liquidator will mail a copy of the filing to the party by the end of the next business day.
- e. In compliance with Pa. R. Civ. P. 440(d)(2), with each Notice of Filing the Liquidator shall transmit a facsimile cover sheet containing:
- 1) The name, firm, address, telephone number of both the Liquidator's counsel and the receiving party;
 - 2) The facsimile telephone number of the Liquidator's counsel

and the facsimile telephone number to which the Notice of Filing was transmitted;

3) The title of the filing served; and

4) The total number of pages transmitted to the party.

f. Consistent with Pa. R. Civ. P. 440(d)(3), a Notice of Filing shall be deemed received by a party when transmission is confirmed as complete.

g. When filing documents with the Court, the Liquidator shall certify that the parties on the MSL were provided a Notice of Filing by facsimile and that an electronic copy of the filing will be made available on the Reliance Documents website.

h. The above facsimile notice and electronic service procedure shall be voluntary for the Liquidator. In exercise of her discretion, the Liquidator may choose to serve a filing by any method of service authorized by the rules of procedure or orders of this Court.

Hon. James Gardner Colins, President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

RECEIVED AND FILED
PHILADELPHIA
COMMONWEALTH COURT
OF PENNSYLVANIA
OCT 25 10 57 AM '02

PETITION TO APPROVE FORM AND MANNER OF SERVICE

Petitioner M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania ("Liquidator"), in her official capacity as Liquidator of Reliance Insurance Company ("Reliance"), respectfully petitions this Court for an order approving the form and manner of facsimile notice and electronic service by the Liquidator on persons listed on the Master Service List. In support of this Petition, the Liquidator avers the following:

INTRODUCTION

1. Plaintiff M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, was appointed Liquidator of Reliance pursuant to this Court's Order dated October 3, 2001.
2. Pursuant to the Insurance Department Act of 1921, 40 P.S. § 221.1 et seq. (the "Act"), the Liquidator is charged with protecting "the interests of insureds, creditors, and the public generally[,] as well as marshalling the assets of Reliance for eventual distribution to the Company's policyholders and other creditors.

3. Under the Act, the General Assembly has authorized the Liquidator to petition this Court for orders consistent with her responsibility to conserve assets of the liquidation estate and to take such other steps as she deems necessary or appropriate to further the goals of liquidation. See 40 P.S. §§ 221.4(d), 221.5(a), 221.23(23).

4. This Court is empowered by the Act to grant relief and fashion remedies “as may be deemed necessary and proper” to effectuate the policies underlying the Act. See 40 P.S. § 221.5(a).

5. The provisions of the Act governing liquidation proceedings are to be liberally construed to effectuate the intent of the General Assembly and to protect the interests of insureds, creditors, and the public generally. 40 P.S. § 221.1(b).

**THE COSTS OF TRADITIONAL SERVICE
ARE SUBSTANTIAL AND UNNECESSARY**

6. This Court’s Case Management Order dated July 30, 2001 (“CMO”) sets forth the required form and manner for filing legal documents in this matter. A copy of the CMO is attached hereto as Exhibit “A”.

7. The CMO further directs the Liquidator to serve copies of all filings upon persons listed on the Master Service List (“MSL”). The MSL currently contains sixty-three parties to be served in this matter. See Certificate of Service.

8. The Liquidator has completed approximately three hundred and seventy-five filings in this matter. The costs of administration, copying, binding, and mailing required to serve all of the MSL parties by traditional methods are paid out of Reliance’s estate as administrative expenses.

9. In addition, the Liquidator anticipates that the proof of claim process and the disputed claim process will generate numerous filings which will require service on the MSL, further increasing the administrative expenses of the estate.

10. Many of the Liquidator's filings in this matter are of substantial length, often containing several exhibits. Recently, the cost of serving a lengthy filing seeking approval of an asset transaction was approximately \$1,200. The Liquidator estimates that this matter may require as many as thirty to forty large filings per year, which may result in service-related expenses in excess of \$450,000.00 over a ten-year period.

11. The Liquidator has determined that the cost of service by traditional means constitutes a substantial expense that is not effecting a commensurate benefit.

12. To address this problem, the Liquidator established a cost-effective system for service upon the MSL parties by electronic mail. However, only approximately thirty percent (30%) of MSL parties elected to participate. See Exhibits "B" and "C" (Correspondence from Counsel for Liquidator to MSL Parties Regarding Service).

13. The Liquidator believes that one reason for the low participation resulted from MSL parties' inability, due to inadequate computer resources, to receive large electronic mail attachments containing PDF files sent by the Liquidator.

14. Accordingly, the Liquidator proposes an alternative cost-effective means of service that provides sufficient and timely notice to all parties, and through this Petition, requests the Court's assistance in implementing a facsimile notice and electronic service system to decrease the expense of service.

ALTERNATIVE FORM AND MANNER OF SERVICE

15. Electronic delivery of documents has become an accepted method of service in many areas, including many state and federal courts. For instance, the Supreme Court of Pennsylvania has taken steps toward modernizing the procedural rules of the Commonwealth's courts by adopting a number of court rules regarding the electronic and facsimile transfer of documents, including Rule 205.4 of the Pennsylvania Rules of Civil Procedure, which provides for electronic filing and service of legal papers. See Pa. R. Civ. P. 205.4. Subsection (g)(2) of Rule 205.4 specifically permits service of legal papers, other than original process, by electronic transmission. See Pa. R. Civ. P. 205.4(g)(2).

16. The Rules of Civil Procedure also permit the prothonotary to give notice of orders, decrees, judgments or other matters by facsimile transmission or other electronic means. See Pa. R. Civ. P. 236(d). Moreover, the legislature has taken steps to further modernize our legal system by enacting, for example, the Electronic Transactions Act, 73 P.S. §§ 2260.101 et seq., which provides for the use and legal recognition of electronic signatures and records.

17. The Rules of Civil Procedure further provide that legal papers, other than original process, "may be served by facsimile transmission if the parties agree thereto or if a telephone number for facsimile transmission is included on an appearance or prior legal paper filed with the court." See Pa. R. Civ. P. 440(d)(1).

18. Consistent with the Rules of Civil Procedure, this Court has in a number of orders entered in this matter authorized service by email or facsimile.

19. The Liquidator requests that the Court formalize a system of facsimile notice and electronic service in this matter, incorporating the following procedures:

- a. When the Liquidator files a document with this Court in the above-captioned matter, the Liquidator shall also electronically serve the document on the MSL parties by posting the document on the Reliance Documents website, <http://www.reliancedocuments.com>, which is maintained by the Liquidator. The Liquidator shall send, by facsimile, a Notice of Filing to the parties listed on the MSL informing them that the filing has been made.
- b. The Liquidator shall transmit the Notice of Filing within twenty-four hours of filing a document with the Court.
- c. The date of filing of all documents shall be determined by the Court's time-stamp on each filing. All time requirements hereunder shall be computed by reference to the time-stamp of each filing and in accordance with the provisions of Rule 106 of the Pennsylvania Rules of Civil Procedure.
- d. The Notice of Filing provided by the Liquidator shall contain the following information:
 - 1) The title and/or a short description of the document that was filed by the Liquidator in the Commonwealth Court in this matter.
 - 2) Notification of when the document was filed with the

Court, as indicated by the time-stamp on the filing.

- 3) Directions on how the MSL party may obtain, download and/or print a copy of the electronically posted filing from the Reliance Documents website,

<<http://www.reliancedocuments.com>>.
- 4) A representation that the document filed will be available on the Reliance Documents website within two business days from the date of the filing with the Court. If a MSL party is unable to obtain a copy of the filing from the Reliance Documents website, for any reason, the Liquidator shall, upon request, provide traditional additional service of the filing to the requesting party.
- 5) The telephone and facsimile numbers of the Reliance Clearinghouse will be included in the Notice of Filing to assist those parties unable to obtain a copy of the filing from the Reliance Documents website. A party may request that a copy of the filing be provided by U.S. Mail, and the Liquidator will mail a copy of the filing to the party by the end of the next business day.
- 6) A sample Notice of Filing is attached to this Petition as Exhibit "D".

e. In compliance with Pa. R. Civ. P. 440(d)(2), with each Notice of Filing the Liquidator shall transmit a facsimile cover sheet containing:

- 1) The name, firm, address, telephone number of both the Liquidator's counsel and the receiving party;
- 2) The facsimile telephone number of the Liquidator's counsel and the facsimile telephone number to which the Notice of Filing was transmitted;
- 3) The title of the filing served; and
- 4) The total number of pages transmitted to the party.

f. Consistent with Pa. R. Civ. P. 440(d)(3), a Notice of Filing shall be deemed received by a party "when transmission is confirmed as complete."

g. When filing documents with the Court, the Liquidator shall certify that the parties on the MSL were provided a Notice of Filing by facsimile and that an electronic copy of the filing will be made available on the Reliance Documents website.

20. The statutory provisions governing this liquidation proceeding direct the Liquidator to protect the interests of insureds, creditors, and the public in general, and authorize the Liquidator to petition this Court to prevent waste and to conserve the insolvent insurer's assets, and to take such other steps as are reasonable and necessary to effectuate the goals of liquidation. 40 P.S. §§ 221.1(c), 221.5(a), 221.23(23).

21. The form and manner of facsimile notice and electronic service proposed by the Liquidator are consistent with the Pennsylvania Rules of Civil Procedure, and are in harmony with the electronic and facsimile service procedures currently permitted by this Court.

22. The Reliance Documents website, <<http://www.reliancedocuments.com>>, currently exists and is maintained by the Liquidator. The website presents the Liquidator's filings and this Court's Orders in easily accessible PDF format that may be printed at the convenience of any interested party, providing cost-effective and timely delivery of documents to all MSL parties and the interested public. Thus, the resources for implementing a system of electronic service are currently in place, and the Liquidator is ready to commence facsimile notice and electronic service immediately.

23. Like the Rules of Civil Procedure governing electronic filing and service, and consistent with traditional modes of service, the facsimile notice and electronic service system set forth above provides all parties with timely notice of all filings by the Liquidator. The procedures for providing notice, along with the quick and easy access to documents available to all parties, address and satisfy due process concerns.

24. Permitting the Liquidator to provide the MSL parties notice of filings by facsimile will not affect the Liquidator's filings with this Court, nor will it impose any additional burdens upon this Court. In fact, the electronic system implements the same technological advances embraced by the Rules of Civil Procedure and often reflected in this Court's orders.

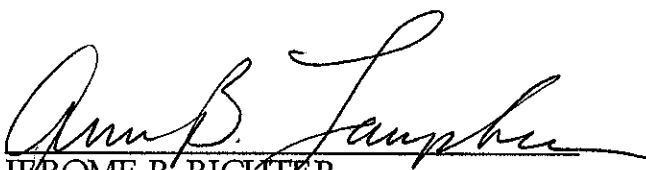
25. The procedures advanced by the Liquidator are sufficiently economical to conserve and prevent unnecessary waste of the estate's assets and are consistent with the goals of liquidation as set forth in the Act.

26. In those instances where the Liquidator determines that traditional service is appropriate, the Liquidator may choose to serve a filing in that manner or in any other manner of service authorized by the rules of procedure or orders of this Court, including the above described facsimile notice and electronic service procedure.

WHEREFORE, the Liquidator respectfully requests that the Court grant the above Petition and enter an order in the form attached hereto permitting the Liquidator to provide facsimile notice of filing and electronically serve all parties listed on the Master Service List in order to conserve the limited assets of the liquidation estate.

Respectfully submitted:

BLANK ROME COMISKY & MCCAULEY LLP

By: 
JEROME R. RICHTER
ANN B. LAUPHEIMER
ANTHONY VIDOVICH
ERIC D. STRAND
One Logan Square
Philadelphia, PA 19103
Telephone: (215) 569-5500
Facsimile: (215) 569-5459

Attorneys for Plaintiff,
M. Diane Koken, Insurance Commissioner
of the Commonwealth of Pennsylvania, in her
official capacity as Liquidator of Reliance
Insurance Company

Of Counsel:
DAVID F. SIMON
Chief Counsel
Insurance Department Of
The Commonwealth Of Pennsylvania
1321 Strawberry Square
Harrisburg, PA 17120
(717) 787-6009

Dated: October 25, 2002

Exhibit A

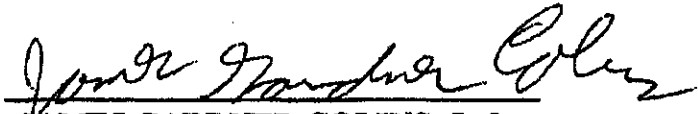
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken, :
Insurance Commissioner of the :
Commonwealth of Pennsylvania, :
Plaintiff :
 :
v. :
 :
Reliance Insurance Company, :
Defendant : No. 269 M.D. 2001

CASE MANAGEMENT ORDER

AND NOW, this 30th day of July, 2001, it is ordered that:

1. All filings in the above-captioned matter shall be filed in the Commonwealth Court Office of the Chief Clerk located in Suite 900, The Widener Building, 1349 Chestnut Street, Philadelphia, Pennsylvania, 19107;
2. Counsel are directed to file all matters on a 3 ½ diskette in Microsoft Word format, along with the original document and four copies;
3. The Rehabilitator shall comprise, maintain, and make available, at a cost of \$1.00 per page, a Master Service List;
4. The Master Service List shall include the name and address of lead counsel for all parties, and the name and address of all *pro se* litigants who have entered an appearance in this matter, and the name and address of all counsel and *pro se* litigants who enter appearances subsequent to the entry of this order.


JAMES GARDNER COLINS, Judge

Certified from the Record

JUL 31 2001

and Order Exit

Exhibit B

BLANK ROME COMISKY & MCCAULEY LLP

Counselors at Law

Direct Dial: (215) 569-5459
Fax: (215) 832-5459
Email: vidovich@blankrome.com

Delaware
Florida
Maryland
New Jersey
New York
Ohio
Pennsylvania
Washington, DC

April 25, 2002

Master Service List

Re: M. Diane Koken v. Reliance Insurance Company
Commonwealth Court of Pennsylvania, No. 269 M.D. 2001

Gentlemen and Ladies:

We write with regard to your continued participation on the Master Service List ("MSL") in the above referenced matter. As I am sure you are aware, this liquidation proceeding has generated a significant number of filings in the Commonwealth Court of Pennsylvania, with many individual filings being of substantial length. All of you have been placed on the Master Service List based on your request, the filing of your appearance in this matter or pursuant to the Court's Case Management Order of July 30, 2001. Many of you have been involved in the liquidation proceeding for discrete and finite matters, the majority of which have been resolved. In an effort to avoid unnecessary expenses associated with service and to conserve the resources of the liquidation estate, we request that you consider whether your continued participation on the MSL is necessary.

In this regard, please consider that the Liquidator of Reliance Insurance Company has created a website (www.reliancedocuments.com) where copies of court orders and all public filings made by the Liquidator in this matter can be obtained. The website is updated by the Liquidator on a weekly basis. Many of you who do not have active matters in the liquidation proceeding, but desire to remain informed, may find that the website provides you with all the information you may need.

For those of you who believe it is necessary to remain on the MSL, this letter constitutes the Liquidator's request that you consent to the electronic service of documents pursuant to Rule 205.4 of the Pennsylvania Rules of Civil Procedure. Rule 205.4(g) provides, in relevant part:

Copies of all legal papers, other than original process filed in an action or served upon any party to an action may be served . . . by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action. . . .

See Pa. R. Civ. P. 205.4(g)(2). Should you consent to electronic service, the Liquidator will

One Logan Square • Philadelphia, Pennsylvania 19103-6998 • 215.569.5500 • Fax: 215.569.5555

www.blankrome.com

BLANK ROME COMISKY & McCAULEY LLP

Master Service List

April 25, 2002

Page 2

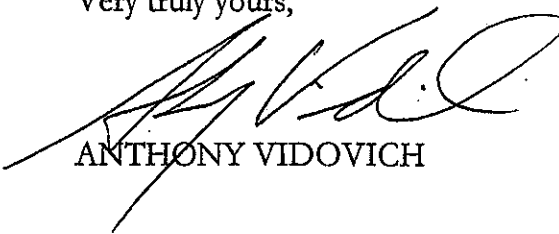
provide, as soon as possible after actual filing of the documents, an electronic copy, in PDF format, of the filing or court order to be served. In some instances where the electronic copy proves too large to send efficiently via email, the Liquidator will provide you with an email Notice of Filing, directing you to the Reliance Documents website (www.reliancedocuments.com), where a true and correct copy of the filing, in PDF format, may be obtained.

In return for your consent to electronic service, the Liquidator in turn consents to the electronic service of documents filed in this matter in the Commonwealth Court of Pennsylvania. Until further notice, service may be made by sending an electronic copy of the filing or other document, in PDF format, to reliancepleadings@blankrome.com.

Enclosed with this letter is a form you may use to inform the Liquidator that you either (1) wish to be removed from the MSL; or (2) consent to electronic service of filings by the Liquidator. Please complete the enclosed form and return it to the Reliance Clearinghouse by facsimile at 215-832-5566. In the alternative, you may send an email to the Reliance Clearinghouse stating your preference for service at reliance@blankrome.com. For the time being, traditional service will be continued.

We thank you for your attention to this matter and appreciate your assistance as we seek to conserve the assets of the liquidation estate while continuing to keep interested parties and the public informed.

Very truly yours,



ANTHONY VIDOVICH

AV:ka
Enclosure

Exhibit C

BLANK ROME COMISKY & McCAULEY LLP

Counselors at Law

Direct Dial: (215) 569-5459
Fax: (215) 832-5459
Email: vidovich@blankrome.com

*Delaware
Florida
Maryland
New Jersey
New York
Ohio
Pennsylvania
Washington, DC*

June 3, 2002

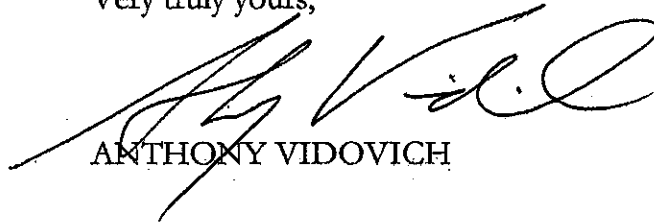
Master Service List

Re: M. Diane Koken v. Reliance Insurance Company
Commonwealth Court of Pennsylvania, No. 269 M.D. 2001
Electronic Service -- Second Request

Gentlemen and Ladies:

I enclose a copy of our April 25, 2002 letter regarding electronic service. Also enclosed is another copy of the form consent to electronic service. If you have already responded to the April 25 letter, you need not do anything with respect to this second request. If you have not responded to the April 25 letter or if you were added to the Master Service List after April 25, please review the enclosed documents and respond as appropriate. It is the Liquidator's goal to establish the electronic service procedures as soon as possible; and your cooperation is appreciated.

Very truly yours,



ANTHONY VIDOVICH

AV:ka

Enclosures

One Logan Square • Philadelphia, Pennsylvania 19103-6998 • 215.569.5500 • Fax: 215.569.5555

www.blankrome.com

114582.00600/21031407v1

Exhibit D

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

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: DOCKET NO. 269 MD 2001
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NOTICE OF FILING BY THE LIQUIDATOR

You are hereby notified that on _____, 20___, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Liquidator of Reliance Insurance Company, filed in the Commonwealth Court of Pennsylvania the following document in the above-captioned matter:
_____ (hereinafter, the "filing").

You have been provided this Notice because your name is listed on the Master Service List in this matter. You may obtain a copy of the filing by accessing the Reliance Documents website <<http://www.reliancedocuments.com>>, choosing the "Recently Filed Documents" link and selecting the PDF document listed for the date of the filing. The filing will be available on the website within two business days from the date of the filing. If you do not have access to the internet or if for any reason you are unable to access the filing on the Reliance Documents website, you may contact the Reliance Clearinghouse by telephone (215) 569-5566, facsimile (215) 832-5566, or email (Reliance@blankrome.com), and a copy of the filing will be mailed to you.

The Liquidator is providing this Notice of Filing to you in compliance with the Commonwealth Court's Order of October __, 2002. If you wish to be removed from the Master Service List, please send your written request to the Reliance Clearinghouse at the facsimile number or email address set forth above.

VERIFICATION

I, William S. Taylor, Deputy Insurance Commissioner of the Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds, am authorized by M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. § 221.23, to act on her behalf in her capacity as the Liquidator of Reliance Insurance Company. I hereby verify that the facts set forth in the foregoing Petition 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 P.S. § 4904 relating to unsworn falsification to authorities.

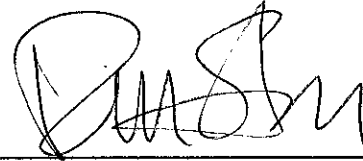
Date: 10 - 23 , 2002

William S. Taylor
William S. Taylor
Deputy Insurance Commissioner of the
Pennsylvania Insurance Department

CERTIFICATE OF SERVICE

I, Eric D. Strand, hereby certify that this day a true and correct copy of the foregoing Petition was served on all persons listed on the attached Master Service List by U.S. Mail, postage prepaid.

Dated: October 25, 2002

A handwritten signature in black ink, appearing to read 'Eric D. Strand', written over a horizontal line.

ERIC D. STRAND

Master Service List

M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania

v.

Reliance Insurance Company

No. 269 M.D. 2001 (Commonwealth Court of Pennsylvania)

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Woods Condominium Assoc., Inc.)

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(Attorneys for O'Brien-Kreitzberg
& Associates, Inc.)

Stephen C. Becker
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