



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  
COMMONWEALTH COURT OF PENNSYLVANIA  
2003 JUL 18 A 11:45

**RESPONSE OF M. DIANE KOKEN TO PETITION  
TO INTERVENE FOR THE PURPOSE OF OBTAINING  
REVIEW OF A DETERMINATION OF THE LIQUIDATOR**

M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as statutory Liquidator of Reliance Insurance Company ("Liquidator"), hereby responds to the Petition To Intervene For the Purpose of Obtaining Review of A Determination Of the Liquidator ("the Petition to Intervene") filed by 25 state guaranty associations ("the Guaranty Associations"). In their Petition to Intervene, the Guaranty Associations seek leave to intervene to file a Verified Petition for Review In the Nature of Declaratory Judgment ("the GA LD Petition").

1. The Liquidator does not oppose intervention by the Guaranty Association, as the Liquidator and the Guaranty Associations, as well as many other Guaranty Associations, entered into an the Agreement for Handling Reliance Large Deductible Policies dated March

27, 2002 (the "Agreement"), approved by the Court by Order dated April 26, 2002, which provides that "the Commonwealth Court of Pennsylvania shall be the sole and exclusive jurisdiction and venue for resolution of the issue of the entitlement to and ownership of the deductible payments under large deductible policies . . . as between the guaranty funds and Reliance."

2. However, on July 3, 2003, the Liquidator filed a Petition to declare that the large deductible reimbursements are general assets of the Reliance estate ("the Liquidator's LD Petition"). The subject matter of the Liquidator's LD Petition substantially or completely overlaps with the subject matter of the proposed GA LD Petition, as both seek a declaration regarding "the issue of the entitlement to and ownership of the deductible payments under large deductible policies . . . as between the guaranty funds and Reliance."

3. Simultaneous prosecution of the two actions would be a waste of judicial resources and result in a needless duplication of effort.

4. The Liquidator proposes that the Court stay action on the Petition to Intervene until the parties have submitted an agreed-upon procedure to the Court to govern this dispute or have notified the Court that they are unable to do so. The Liquidator suggests that the procedure may include, as the Court deems appropriate:

a. An Amended Petition filed by the Liquidator naming all parties to the GA LD Petition and the Liquidator LD Petition;

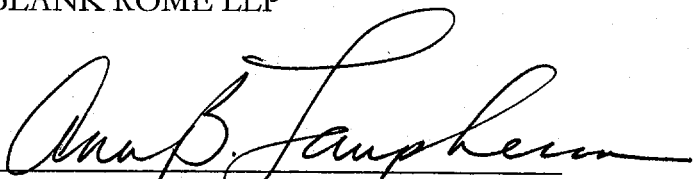
b. A proposed schedule for response, including without limitation, an answer or counterclaim by the Guaranty Associations;

- c. An agreement with respect to the need for and scope of any discovery and a time period in which such discovery shall proceed;
- d. A proposed briefing schedule for the presentation of legal arguments to the Court;
- e. A date for hearing, argument or trial, as agreed by the parties.

WHEREFORE, the Liquidator requests that this Court enter the Order in the form attached hereto.

BLANK ROME LLP

By:



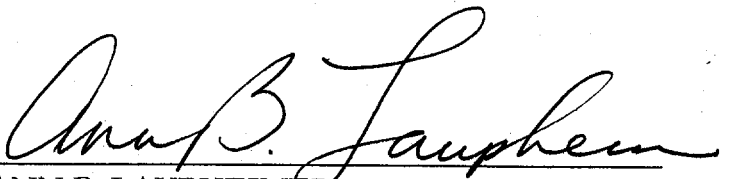
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Dated: July 18, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the preceding Response of M. Diane Koken to Petition to Intervene was served by first class mail, postage prepaid, facsimile and/or electronic mail on the attached Master Service List and on the following individuals:

  
ANN B. LAUPHEIMER

Dated: July 18, 2002

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