

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN

Insurance Commissioner of the
Commonwealth of Pennsylvania,
in her official capacity as Liquidator of
RELIANCE INSURANCE COMPANY,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 M.D. 2001

In Re Large Deductible Reimbursements,

M. DIANE KOKEN

Insurance Commissioner of the
Commonwealth of Pennsylvania,
in her official capacity as Liquidator of
RELIANCE INSURANCE COMPANY,

Petitioner,

v.

CALIFORNIA INSURANCE GUARANTY
ASSOCIATION, GEORGIA INSURERS
INSOLVENCY POOL, ILLINOIS INSURANCE
GUARANTY FUND, MASSACHUSETTS
INSURERS INSOLVENCY FUND, NEW
JERSEY WORKERS COMPENSATION
SECURITY FUND, KANSAS INSURANCE
GUARANTY ASSOCIATION, NEW YORK
PROPERTY/CASUALTY INSURANCE
SECURITY FUND, TEXAS PROPERTY AND
CASUALTY INSURANCE GUARANTY
ASSOCIATION, ALABAMA INSURANCE
GUARANTY ASSOCIATION, ALASKA
INSURANCE GUARANTY ASSOCIATION,

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RECEIVED AND FILED
COMMONWEALTH COURT
OF PENNSYLVANIA

COLORADO INSURANCE GUARANTY ASSOCIATION, HAWAII INSURANCE GUARANTY ASSOCIATION, IDAHO INSURANCE GUARANTY ASSOCIATION, INDIANA INSURANCE GUARANTY ASSOCIATION, KENTUCKY INSURANCE GUARANTY ASSOCIATION, LOUISIANA INSURANCE GUARANTY ASSOCIATION, MARYLAND PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION, MICHIGAN PROPERTY AND CASUALTY GUARANTY ASSOCIATION, MINNESOTA INSURANCE GUARANTY ASSOCIATION, MISSOURI PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, MONTANA INSURANCE GUARANTY ASSOCIATION, NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION, NEW MEXICO PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, OKLAHOMA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, WASHINGTON INSURANCE GUARANTY ASSOCIATION, WISCONSIN INSURANCE SECURITY FUND, and WYOMING INSURANCE GUARANTY ASSOCIATION,

Respondents.

ORDER

AND NOW, this _____ day of _____, 2003, upon consideration of the Responding Associations' Request for Oral Argument and the Liquidator's Response thereto, it

is hereby ORDERED that the request is DENIED and this Court will decide the Responding Associations' Petition to Strike based upon written submission previously made.

BY THE COURT:

JAMES GARDNER COLINS, P.J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Respondents.

LIQUIDATOR'S RESPONSE TO RESPONDING ASSOCIATIONS' REQUEST FOR ORAL ARGUMENT

M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania ("Liquidator"), in her capacity as Liquidator of Reliance Insurance Company, hereby responds to the Responding Associations' Request for Oral Argument as follows:

1. The Liquidator's counsel will, of course, appear at oral argument if the Court believes such argument would be beneficial in assisting the Court to decide the Guaranty

Associations' Petition to Strike the Liquidator's Petition to Declare that Deductible

Reimbursements are General Assets of the Estate (the "Petition to Strike") and the Liquidator's Response in Opposition thereto. However, the Liquidator submits that the issue has been fully briefed, is procedural and not complex, and that oral argument is unlikely to add anything that would assist the Court's decision making process.


2. Contrary to the statements in the Associations' Request for Oral Argument, there is no inconsistency in the procedures followed by the Liquidator. The Liquidator's Petition to Declare that Deductible Reimbursements are General Assets of the Estate was filed under Pa. R. App. 123, because it is a petition seeking a declaration as to whether a particular potential asset is property of the estate being liquidated. This issue is the essence of *core jurisdiction* of the liquidation proceedings, clearly susceptible to the application procedure that is contemplated by 40 P.S. § 221.5 – a procedure which has been utilized in this liquidation for many matters. The Robert Steinberg action referred to in the Request for Oral Argument is a preference action for which the statute governing these proceedings provides "summary jurisdiction" to this Court. On the other hand, the Liquidator's action against directors and officers required that a complaint be filed starting an independent action because it seeks to obtain damages from third parties, as opposed to a declaration of what is an asset of, or return of property to, the estate.

3. The Liquidator submits that there is nothing to be added in this matter by oral argument that has not already been stated and restated in lengthy written submissions to the Court, and that the Court need not schedule oral argument unless, after reviewing those written submissions, it finds that there are matters upon which it requires further clarification or elucidation from counsel.

WHEREFORE, the Liquidator requests that the Responding Associations' request for oral argument on their Petition to Strike be denied unless the Court finds that there are matters about which it wishes to direct inquiry to counsel.

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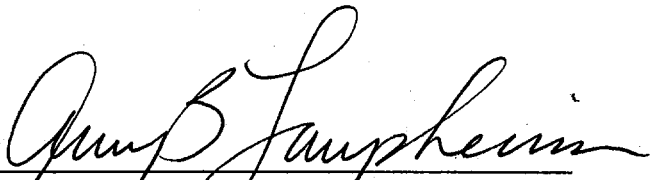
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M. Diane Koken, Insurance Commissioner
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as Liquidator of Reliance Insurance Company

Dated: September 26, 2003

CERTIFICATE OF SERVICE

I, Ann B. Laupheimer, hereby certify that this day a true and correct copy of the foregoing Response to Responding Associations' Request for Oral Argument was served on all persons listed on the attached Master Service List by U.S. Mail, postage prepaid.

Dated: September 26, 2003


Ann B. Laupheimer

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v.

Reliance Insurance Company

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

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