

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

ORDER

AND NOW this _____ day of _____, 2001, upon consideration of petitioner's Emergency Petition to Modify and Clarify the Court's August 2, 2001 Order to Extend the 60-Day Stay As to Additional Related Cases, it is hereby ORDERED that the petition is GRANTED. This Court's August 2, 2001 order is hereby amended to include the following cases:

1. Allison Desmond, et al. v. BankAmerica Corp., et al., Superior Court of the State of California (San Francisco County), Case No. 998629;
2. In re Xerox Securities Litigation, United States District Court of Connecticut, 3:99 CV 2374;
3. Butler v. Marine Military Academy, Judicial District Court, Cameron County, Texas, Cause No. 99-11-4891-E;
4. Bart A. Brown, Jr., et al. v. Anderson Consulting, et al., District Court of Harris County, Texas, Cause No. 98-30416.

COLINS, J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN	:	
Insurance Commissioner of the	:	
Commonwealth of Pennsylvania,	:	
	:	
Plaintiff,	:	
	:	
v.	:	DOCKET NO. 269 MD 2001
	:	
RELIANCE INSURANCE COMPANY,	:	
	:	
Defendant	:	

**EMERGENCY PETITION TO MODIFY AND CLARIFY
THE COURT'S AUGUST 2, 2001 ORDER TO EXTEND THE
60-DAY STAY AS TO ADDITIONAL RELATED CASES**

Petitioner M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, as Rehabilitator for Reliance Insurance Company ("Rehabilitator"), by her undersigned counsel, respectfully petitions this Court to modify and clarify its August 2, 2001 order to extend the 60-day stay for an additional one hundred and eighty (180) days as to certain additional cases. In support of her petition, the Rehabilitator avers:

1. On July 31, 2001, the Rehabilitator filed an emergency petition (the "Petition") with this Court seeking an order extending the 60-day stay for an additional 180 days with respect to certain claims litigation ("major cases") that she believed presented significant financial exposure to Reliance Insurance Company ("Reliance"). The Rehabilitator determined that, while these major cases represented significantly less than 1% of total number of lawsuits pending against Reliance and its insureds, the total potential exposure that the cases presented may be well in excess of \$100 million. Because the cases could have a substantial impact on the viability of Reliance's rehabilitation, the Rehabilitator requested

an additional stay of 180 days in order to permit her to properly and carefully analyze the status of each case, its posture and merits, settlement value and potential for settlement, as well as defense strategy.

2. On August 2, 2001, the Court entered an order granting the Rehabilitator's petition and extending the stay of the major cases for an additional 180 days. See Tab 1.

3. The Rehabilitator has recently learned that the following cases, which are substantially related to the major cases identified in Exhibit "A" to the Petition, had been inadvertently omitted from the Petition:

1. Allison Desmond, et al. v. BankAmerica Corp., et al., Superior Court of the State of California (San Francisco County), Case No. 998629;
2. In re Xerox Securities Litigation, United States District Court of Connecticut, 3:99 CV 2374;
3. Butler v. Marine Military Academy, Judicial District Court, Cameron County, Texas, Cause No. 99-11-4891-E;
4. Bart A. Brown, Jr., Chapter 7 Trustee for FoxMeyer Corporation v. Anderson Consulting, et al., District Court of Harris County, Texas, Cause No. 98-30416.

The claims and issues in these four cases mirror or substantially overlap with the cases identified in Exhibit A of the Court's August 2 order.

4. Allison Desmond v. BankAmerica Corp. is a securities litigation in California state court that asserts claims parallel to those in the federal securities litigation In re BankAmerica Corp. Secur. Litig., Case No. 2 on Exhibit A to the August 2 Order. The California state court action arises from the same events and transactions that gave rise to the federal court action, In re BankAmerica Corp. Secur. Litig.

5. In re Xerox Securities Litigation asserts claims that parallel the two Xerox securities litigation, Case No. 6 on Exhibit A, and arises out of the same events and transactions.

6. Butler v. Marine Military Academy is one of five cases against the Marine Military Academy, each of which arises out of alleged hazing and assault on students at the Academy, Case No. 3 on Exhibit A.

7. Bart A. Brown, Chapter 7 Trustee for FoxMeyer is an action brought by the Chapter 7 Trustee for FoxMeyer Company against Arthur Andersen & Co. and Andersen Consulting ("Andersen") for fraud, negligence and breach of contract in the installation and implementation of its computer information systems. In Bart A. Brown, the Trustee alleges that Andersen's actions substantially contributed to Foxmeyer's insolvency. The claims in this case are related to those in Zuckerman v. FoxMeyer, Case No. 9 on Exhibit A, in which plaintiffs are claiming that Foxmeyer's officers and directors mismanaged the company causing the company to become insolvent. In Zuckerman, the defendant officers and directors contend that it was Andersen's wrongful actions in installing and implementing the computer systems that caused Foxmeyer's insolvency. Accordingly, there is a substantial overlap in the claims and issues in the two cases.

8. There would be no prejudice to the parties to these cases. Any prejudice that may result from a stay would be substantially outweighed by the critical necessity of the stay.


WHEREFORE, the Rehabilitator requests that the Court modify and clarify its August 2, 2001 order to extend the stay for 180 days as to the following four cases:

1. Allison Desmond, et al. v. BankAmerica Corp., et al., Superior Court of the State of California (San Francisco County), Case No. 998629;

2. In re Xerox Securities Litigation, United States District Court of Connecticut, 3:99 CV 2374;
3. Butler v. Marine Military Academy, Judicial District Court, Cameron County, Texas, Cause No. 99-11-4891-E;
4. Bart A. Brown, Jr., Chapter 7 Trustee for FoxMeyer Corporation v. Anderson Consulting, et al., District Court of Harris County, Texas, Cause No. 98-30416.

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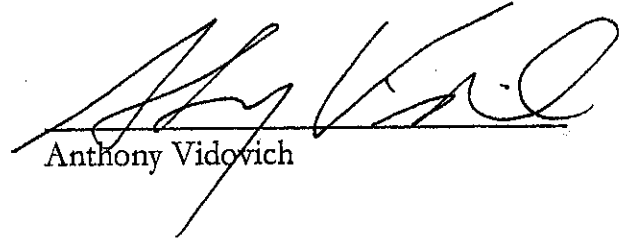
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Dated: September 10, 2001

CERTIFICATE OF SERVICE

I, Anthony Vidovich, hereby certify that this day a true and correct copy of the foregoing Emergency Petition to Modify and Clarify the Court's August 2, 2001 Order to Extend the 60-Day Stay as to Additional Related Cases was served on all persons listed on the attached Master Service List by facsimile and U.S. Mail, postage prepaid.

Dated: September 10, 2001


Anthony Vidovich

Master Service List

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v.

Reliance Insurance Company

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

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EXHIBIT A

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
AUG 2 11 38 AM '01

ORDER

AND NOW this 2nd day of August, 2001, upon consideration of petitioner's Emergency Petition to Extend the 60-Day Stay Pursuant to Paragraph 22 of the Commonwealth Court's May 29, 2001 Order, it is hereby ORDERED that the petition is GRANTED insofar as this Court specifically finds that it is in the best interests of the estate of Reliance Insurance Company, as well as the policyholders as a whole, the creditors and other interested parties, that proceedings and actions, including but not limited to discovery, in each of the cases identified in Exhibit "A" hereto should be stayed for a period of 180 days, such period to commence on the date of this order. With respect to suits and other proceedings outside the Commonwealth of Pennsylvania and in the federal courts of the United States, this Order constitutes the request of this Court for comity in the extension of the stay by such courts or tribunals, and that those courts afford this order deference by reason of this Court's responsibility for and supervisory authority over the rehabilitation of

Reliance Insurance Company, as vested in this Court by the Pennsylvania Legislature. See 40

P.S. § 221.1-221.63.

Opinion to follow.

James Gardner Collins
COLINS, J.

Certified from the Record

AUG - 6 2001

and Order Exit

EXHIBIT "A"

1. **Bank One:**

In re Bank One Securities Litigation, United States District Court for the Northern District of Illinois (Eastern Division), No. 00-CV-0767 (First Chicago).

Levitan v. McCoy, United States District Court for the Northern District of Illinois, No. 00-CV-5096 (First Commerce).

Kenneth Carlson, et al. v. McCoy, et al., United States District Court for the Eastern District of Texas, No. 500CV 259

In re Old Banc One Shareholders Securities Litig., United States District Court for the Northern District of Illinois, No. 2100.

2. **Bank of America:**

In re BankAmerica Corp. Securities Litigation, United States District Court for the Eastern District of Missouri (Eastern Division), MDL No. 1264.

3. **Marine Military Academy:**

John Peter, et al. v. Marine Military Academy, 197th Judicial District Court, Cameron County, Texas, Cause # 98-07-2761-C;

Debbie Wayne, et al. v. Marine Military Academy, et al., 197th Judicial District Court, Cameron County, Texas, Cause # 98-01-119-C;

Samuel Elza v. Marine Military Academy, et al., 197th Judicial District Court, Cameron County, Texas, Cause # 99-02-863-C;

Parents of John Doe, et al. v. Marine Military Academy, 404th Judicial District Court, Cameron County, Texas, Cause # 97-11-7227-E.

4. **Towers, Perrin, Forster & Crosby:**

The Los Angeles County Employees Retirement Association, et al. v. Towers, Perrin, Forster & Crosby, Inc., et al., United States District Court

for the Central District of California (Western Division), Case No. CV-01-1351-DDP (CTX).

5. **Oxford Health Plans:**

In re Oxford Health Plans, Inc. Securities Litigation and In re Oxford Health Plans, Inc. Derivative Litigation, United States District Court for the Southern District of New York, MDL Docket No. 1222-D (CLB).

6. **Xerox, Inc.:**

Russell Carlson, et al. v. Xerox Corporation, et al., United States District Court for the District of Connecticut, Case No. 3:00-CV-1621 (securities class action);

In re Xerox Derivative Actions, Index No. 00-114687, Supreme Court of the State of New York, County of New York.

7. **Kutak Rock:**

Waynesburg College, et al. v. Terry L. Church, et al., United States District Court for the Southern District of West Virginia, Civil Action No.: 1-00-CV-0081.

8. **Cell Pathways:**

In re Cell Pathway Securities Litig., United States District Court for the Eastern District of Pennsylvania, Master.

Robert Frutkin, et al. v. Cell Pathways, Inc., et al., United States District Court of Pennsylvania, Civil Action No. 01-CV-1348.

9. **Foxmeyer Health Corp.:**

Zuckerman v. Foxmeyer Health Corp., et al., United States District Court for the Northern District of Texas, Case No. 3-96CV-2258-t.

10. **Cendant:**

In re Cendant Corp. Derivative Action, United States District Court for New Jersey, No. 98-1998.

Dr. Phoebe T. Corwin, et al. v. Henry R. Silverman, Delaware Chancery Court, New Castle County, C.A. No. 16347.11. **Fruit of the Loom, Inc.:**

11. **Fruit of the Loom, Inc.:**

New England Health Care Employees Pension Fund v. Fruit of the Loom, Inc., et al., United States District Court for the Western District of Kentucky (Bowling Green Division) No. 1:98-CV-99M.

Carol Bradley, derivatively on behalf of Fruit of the Loom, Inc. v. William Farley, et al., United States District Court for the Western District of Kentucky (Bowling Green Division), No. 1:98-CV-149M.

12. **Columbia/HCA:**

Sidney Morse v. R. Clayton McWhorter, et al., United States District Court for the Middle District of Tennessee, Civil Action No. 3-97-0370.

H. Carl McCall, et al. v. Richard L. Scott, et al., United States District Court for the Middle District of Tennessee, Civil Action No. 3-97-0838.

Charles Ferguson v. Columbia/HCA Healthcare Corp., et al., Circuit Court for Washington County, Tennessee, Case No. 18679.

Kemp Hoop et al. v. Columbia/HCA Healthcare Corporation, et al., District Court of Johnson County, Texas, 249th Judicial District, Case No. 249-171-97.

13. **IKON Office Solutions, Inc.:**

Whetman, et al. v. IKON Office Solutions, Inc., et al., MDL Docket No. 1318 (E.D.Pa.).

14. **United Companies Financial Corp.:**

Charles James Myer v. U.S. Trust Co. of Calif., United States District Court for the Middle District of Louisiana, No. 00-147-D-M3.

Amy Bergeron, et al. v. U.S. Trust Co. of Calif., et al., United States District Court for the Middle District of Louisiana, No. 00-174-D-M3.

Rebecca Donaldson, et al. v. U.S. Trust Co. of Calif., et al., United States District Court for the Middle District of Louisiana, No. 00-509-D-M3. Three cases have been consolidated.

15. **Synagro Technologies, Inc.:**

Jessica Tristan Lopez, et al. v. Nicky Lee Framer, et al. and Synagro,
135th Judicial District, District Court of Jackson County, TX, Cause No. 99-
1-11337.

16. **Woodbridge Films:**

Fuji Bank, Claimant v. Woodbridge Films, Respondent (arbitration).

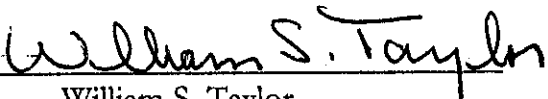
17. **Allegheny Health Education and Research Foundation
(AHERF):**

In re Allegheny Health Education and Research Foundation, et al., United
States District Court for the Western District of Pennsylvania, Miscellaneous
No.: 00-40; Civil Action No.: 99-854, 99-1124, 99-1125, 99-1907, 99-2069;
00-231, 00-668, 00-2019, 00-2081, 01-04, 01-270, 01-441, 01-493; and all
other related proceedings.

VERIFICATION

I, William S. Taylor, am the Deputy Insurance Commissioner, Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds, and the Deputy Rehabilitator of Reliance Insurance Company. I hereby verify that the statements contained in the foregoing Emergency Petition are true and correct to the best of my knowledge, information and belief.

I understand that the statements in this petition are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


William S. Taylor

Date: September 5, 2001