

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

**BEFORE THE COURT-APPOINTED REFEREE
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY
DISPUTED CLAIMS DOCKET**

In Re Liquidator Number: 2005-HICIL-14
Proof of Claim Number: AMBC 465096
AMBC700610
AMBC 464386
INTL 277878
AMBC 465074
Claimant Name: Century Indemnity Company
Policyholder account Monsanto Company

**CENTURY INDEMNITY COMPANY'S REQUEST FOR
EVIDENTIARY HEARING**

Century Indemnity Company ("CIC") by and through its undersigned attorneys, hereby requests that, in accordance with sections 14 and 16 of the Restated and Revised Order Establishing Procedures Regarding Claims Filed with The Home Insurance Company in Liquidation dated January 19, 2005 ("Claims Procedures Order"), and as set forth in the Joint Request for Structuring Conference dated December 20, 2024 (the "Joint Request"), the Referee (a) set the above-captioned matter for an evidentiary hearing and (b) enter a schedule for discovery in this matter. In support thereof, CIC respectfully states as follows:

1. This is a disputed claim proceeding between CIC and David J. Bettencourt, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), regarding CIC's claim for contribution (the "Contribution Claim") with respect to the Monsanto Company ("Monsanto"). Additional details regarding the

Contribution Claim and the factual and procedural history of this disputed claim proceeding are set forth in greater detail in the Joint Request.

2. In a disputed claims proceeding, discovery, “including interrogatories, requests for documents, request for admissions or evidence depositions,” is governed by the relevant rules of procedure of the New Hampshire Superior Court. Claims Procedures Order, ¶ 14(c). The Claims Procedures Order also provides that, upon the request of a claimant or the Liquidator, the Referee may adjudicate a disputed claim after an evidentiary hearing. *See id.*, ¶¶ 11, 16.

3. Here, fact discovery of the Liquidator and an evidentiary hearing are both necessary to determine the validity and amount of the Contribution Claim. As the Referee is aware, under applicable law, an insurer’s right to contribution is based principally upon whether (a) the insurer seeking contribution has paid more than its fair share of a common risk, and (b) the insurer against which contribution is sought has paid less than its fair share.

4. The Liquidator has entered into a settlement of Monsanto’s claims against the Home (the “Monsanto Settlement”), in an amount which the Liquidator contends represents the Home’s fair share of the common risk. CIC is entitled to take discovery of the Liquidator regarding, among other things, (a) the assumptions and inputs reflected in the Monsanto Settlement; (b) how the Liquidator has allocated that settlement across various policy years; and (c) any non-privileged documents or communications reflecting the Liquidator’s views on the estate’s liability to Monsanto and potential defenses to coverage. Each of these issues bear upon whether the Monsanto Settlement represents the Home’s fair share of any commonly insured liabilities.

5. The Liquidator also asserts that CIC has failed to substantiate the Contribution Claim or show that CIC is or will be liable to Monsanto in an amount that exceeds CIC’s fair share

on account of the Home's portion of any common risk. CIC is entitled to elicit testimony and introduce other evidence that (a) substantiate the build-up of the Contribution Claim; (b) identify key assumptions used in calculating the Contribution Claim; and (c) demonstrate how such assumptions compare to those made by the Liquidator, and their effect on the resulting Contribution Claim.

6. Accordingly, for the reasons set forth herein, and as will be explained at a forthcoming structuring conference, CIC respectfully requests that the Referee set this matter for an evidentiary hearing and enter a discovery schedule.

January 8, 2025

Respectfully submitted,

CENTURY INDEMNITY COMPANY

By its attorneys,

/s/ Lisa Snow Wade

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Request was sent by email to CIC's counsel this 8th day of January, 2025.

/s/ Lisa Snow Wade _____

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