

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO  
CIVIL DIVISION

ANN H. WOMER BENJAMIN,  
Superintendent,  
Ohio Department of Insurance, in her Capacity  
as Rehabilitator of Colonial  
Insurance Company

Plaintiff,

v.

COLONIAL INSURANCE COMPANY,  
(In Rehabilitation)

Defendant.

CASE NO. 03 CVC 01 00597

JUDGE DAVID FAIS

**MOTION FOR APPROVAL OF THE REHABILITATION PLAN FOR THE  
COLONIAL INSURANCE COMPANY**

Pursuant to R.C. 3903.14(D), the Plaintiff, Ann H. Womer Benjamin, Superintendent,  
Ohio Department of Insurance, in her capacity as Rehabilitator of Colonial Insurance Company  
("Colonial"), requests this Court for approval of the Rehabilitation Plan for Colonial. The  
reasons and analysis that support this motion are set forth in the accompanying Memorandum of  
Support and the attached Rehabilitation Plan.

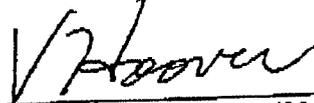
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Respectfully Submitted,

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## MEMORANDUM IN SUPPORT

### I. STATEMENT OF FACTS

Colonial Insurance Company ("Colonial") is an Ohio corporation engaged in the sale of long-term health care insurance to seniors. On January 16, 2003, the Court of Common Pleas of Franklin County, Ohio placed Colonial into rehabilitation because Colonial was in such condition that its further transaction of business would be financially hazardous to its policyholders, creditors, or the public, and Colonial had consented to the appointment of a Rehabilitator on November 26, 2002. The Court appointed the Ohio Superintendent of Insurance as the Rehabilitator ("Rehabilitator") of Colonial. Pursuant to R.C. 3903.13 to 3903.16, the Rehabilitator is proposing the Rehabilitation Plan (the "Plan"), simultaneously filed with this motion, to ensure that Colonial continues to meet its obligations to existing policyholders. The Rehabilitator comes before this Court seeking approval of the Plan. Because the Plan is fair and equitable, this Court should approve the Plan.

#### *1. Colonial Insurance Company*

Colonial is a unique insurance company as a result of its original terms of inception coupled with the changes made to Ohio insurance law since Colonial's founding. Colonial was organized as a Mutual Protective Association ("MPA") on November 4, 1899, under G.C. 9445 (predecessor to R.C. 3919.31). See "Plan of Rehabilitation" for Colonial Insurance Company ("Plan of Rehabilitation"). Originally, MPAs were companies organized to provide insurance against accidental personal injury, loss of life, and the health expenses resulting from sickness or injury to its members. G.C. 9445 (predecessor to R.C. 3919.31).<sup>1</sup> Any company with five or more "citizens" could organize as a MPA. Id. Currently, the formation of MPAs is no longer permitted. Pursuant to G.C. 9445-1, now codified at R.C. 3919.32, no new accident and health

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<sup>1</sup> At present, Colonial offers only health care policies.

companies could form as a MPA after May 26, 1939. However, the statute carved out an exception for companies formed prior to May 26, 1939, allowing those companies to continue transacting business as MPAs. Colonial, in essence, was grandfathered by the statute and permitted to stay in existence.

A MPA's financial organization is very different from other insurance companies. A MPA is expressly authorized to assess its members as the primary method of financing its payment of liabilities. R.C. 3919.01.<sup>2</sup> Courts have long-noted that a MPA could assess its members for payment of losses, create a financial surplus to pay administrative expenses, and offset any losses with its surplus funds prior to any additional assessments. *State v. Bowen* (1937), 132 Ohio St. 583, 9 N.E.2d 494. While any MPA existing prior to August 9, 1913, is allowed to continue financing its operation through imposition of assessment plans, a MPA organized after that date is prohibited from assessing members. G.C. 9429-4 (predecessor section to R.C. 3919.15). Because Colonial was organized in 1899, however, it is permitted to finance its operations through an assessment plan.

Colonial has, at all relevant times, been licensed to conduct business as an insurer solely in Ohio. See Plan of Rehabilitation. Presently, Colonial's business only consists of the issuance of three types of long-term health care policies: (1) Guaranteed Renewable Convalescent Care Insurance ("CC"); (2) Medicare Supplement Insurance ("MS"); and (3) Other miscellaneous policies.<sup>3</sup> Id. Colonial policyholders are exclusively senior citizens. See attached Exhibit A, *Aff. Dana Rudmose* ¶ 4 (Oct. 13, 2003).

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<sup>2</sup> Under an assessment plan, each policyholder, as a member of the MPA, is required to pay a proportionate share of the insurer's liabilities.

<sup>3</sup> Currently, Colonial services 189 miscellaneous policies.

## ***2. Colonial's Current Operating Status***

On November 29, 2000, Colonial began operating its business subject to a Supervision Order issued by the Ohio Department of Insurance ("Department"). See Plan of Rehabilitation. In accordance with the terms of the Supervision Order, Colonial has not issued any new insurance policies since May 2001 due to the business risk posed to policyholders, creditors, and the public. Aff. Rudmose ¶ 5. Since May 2001, Colonial's income has been generated solely by policy renewal business and investment income. Aff. Rudmose ¶ 6. This resulted in Colonial's premium income declining over the last two years, due to: (1) policy lapses; (2) policyholders choosing not to renew their Colonial policies; and (3) existing policyholders' deaths. Aff. Rudmose ¶ 7.

On or about November 15, 2002, Colonial submitted a financial statement to the Department, as required by the Supervision order, showing that it had a negative worth of \$39,259. On November 26, 2002, Colonial's board of directors consented to the appointment of a Rehabilitator pursuant to R.C. 3903.12. On January 16, 2003, the Superintendent filed a Complaint in the Franklin County Court of Common Pleas to place Colonial in rehabilitation; the court ordered Colonial into rehabilitation that same day. See Plan of Rehabilitation. Rehabilitation serves to protect Colonial's assets until a Plan is drafted by the Rehabilitator that salvages policyholders' interests. Following its placement into rehabilitation by this Court, Colonial has continued its operations.

### 3. Colonial's Current Financial Status<sup>4</sup>

Throughout supervision and rehabilitation, Colonial has continued to satisfy the obligations owed to its policyholders. The following sections provide a snapshot of Colonial's current financial standing.

#### A. Colonial's Convalescent Care ("CC") Policy Business

In the late 1990's, Colonial's board of directors made the business decision to cease issuing some CC policies. Colonial's CC revenues continue to show a steady decline because no new CC policies have been issued and no new policyholders have been added to the CC reserve pool. Aff. Rudmose ¶ 8. Further, for the past four years the total number of outstanding CC policies has dropped 15-20% annually as a result of policy lapses and policyholder deaths.

As of December 31, 2002, Colonial had 1,190 outstanding CC policies with an aggregate reserve of \$4,007,000, or an average outstanding reserve of approximately \$3,400 per policy.<sup>5</sup> Aff. Rudmose ¶ 9. Approximately one-half of the outstanding policies (635) contain an automatic inflation rider that increases the daily policy benefit by a defined percentage each year the policy is in effect to keep pace with the increased health care costs resulting from inflation. Aff. Rudmose ¶ 10. In addition, as of December 31, 2002, Colonial had 76 CC policies in claims paying status. The unpaid claim reserves for those policies were \$2,656,000, or approximately \$35,000 per reported claim. Aff. Rudmose ¶ 11.

To minimize the public's exposure to any financial risk, Colonial has been operating essentially in run-off status, only renewing existing policies. This leaves Colonial with no opportunity to generate business growth or increase profits in its CC line because the business

<sup>4</sup> While Colonial's other miscellaneous policies provide long-term care benefits, those policies are a de minimis portion of the company's business and will not materially affect the Plan, thus will not be analyzed in this brief.  
<sup>5</sup> A contract reserve represents the present value of future benefits minus the present value of any appropriate future valuation net premiums.

will continue to steadily decline over time. Furthermore, due to its organization as a mutual assessment insurer, Colonial is unable to raise new capital through any mechanism other than an assessment of its policy holders (e.g. stock issuance; restructuring of capitalization). The consequences of any assessment, however, would result in a greater decrease in revenue and in the number of policyholders; many policyholders would choose to let their CC coverage lapse to avoid paying the assessment. See Plan of Rehabilitation. Further, the administrative costs required to issue and collect an assessment make it a cost-prohibitive option.

Additionally, Colonial's CC business has been adversely impacted by the failure to correctly calculate Colonial's needed CC reserves. Prior to 2001, Colonial's annual reserve estimation reports did not take into account the inflation rider in effect on CC policies. Beginning in 2001, the Department required Colonial to eliminate any shortfall in its CC reserves. Further, Colonial continues to experience volatility in the levels of its CC reserves as a result of the decrease in active policyholders coupled with the aging of the remaining policyholders. For example, the average reserve on a reported CC claim is approximately \$35,000, while the average reserve for a policy not in claims paying status is \$3,400. This disparity requires the lapse or death of 10.3 policyholders for every new claim to achieve a neutral income and/or surplus effect.

#### B. Colonial's MS Policy Business

As of December 31, 2002, Colonial had 2,986 outstanding MS policies with an average reserve of \$230 per policy. Aff. Rudmose ¶ 13. Currently, the MS line of business is Colonial's primary source of incoming premiums; the MS line accounts for approximately 70% of all premiums received by Colonial. Aff. Rudmose ¶ 14. At present, Colonial's Deputy Rehabilitator indicates that Colonial's MS business and accompanying reserves are keeping pace with one

another. However, because of the company's risky financial position, Colonial's MS block of business is also in runoff. Aff. Rudmose ¶ 15.

**4. Pending Class Action Suit Against Colonial: Mary E. Nunneker, et al. v. Colonial Insurance Company, et al., CV00412736 & CV01454848 (consolidated)(Cuyahoga Cty. Ct. Com. Pleas)<sup>6</sup>**

A pending class action, brought by Colonial policyholders alleging that Colonial engaged in fraudulent sales of CC policies, threatens to undermine Colonial's obligations to its policyholders.<sup>7</sup> The Plaintiffs consist solely of Colonial's past and present CC policyholders. The Plaintiffs brought the following allegations against Colonial:

1. Colonial intentionally, recklessly, and/or negligently underpriced its CC policies to induce the CC policies' sale at lower initial premium rates.
2. Colonial misrepresented to the Plaintiffs that some policy increases may occur, fully knowing that significant price increases were certain due to an improper underpricing of CC premiums resulting from: (i) understating anticipated losses and reserves; (ii) poorly underwriting the policies; and (iii) ignoring the likelihood of the closing of its CC book of business.
3. Colonial's underpricing was deliberately undertaken to make the CC policies more marketable to potential policyholders.
4. Colonial deliberately increased the CC policies' marketability to induce the Plaintiffs to purchase of the policies.

<sup>6</sup> The initial class action (Nunneker I) was filed on July 10, 2000, naming only the Colonial Insurance Company as a Defendant. A second class action (Nunneker II) was filed on November 29, 2001, naming the following Colonial board members as Defendants: Nancy J. Holz, Mark J. Forrester, Ralph D. Kovanda, and Cathleen Delaney. The classes were certified on December 3, 2001, and March 13, 2002, respectively. Subsequently, the court consolidated both cases.

<sup>7</sup> Attached as Exhibit C are the complete dockets for both the Nunneker I and Nunneker II class actions.

Based on these allegations, the Plaintiffs brought claims for fraud, breach of contract, unjust enrichment, and negligence against Colonial. The Plaintiffs seek the damages incurred as a result of paying increased premiums, as well as interest, punitive damages, and an injunction against any future premium increases.

Colonial denied all of the Plaintiffs' allegations. As a defense to the Plaintiffs' claims, Colonial alleged that the actuarial firm ("Tillinghast") retained to review and estimate its CC reserves negligently performed its actuarial services. Prior to 1990, Colonial supplied its CC claims and premium history to Tillinghast to determine any needed rate adjustments. On February 5, 2001, Colonial filed a Third-Party Complaint against Tillinghast asserting claims that arose out of Tillinghast's actuarial services. However, on September 11, 2001, the court dismissed Colonial's complaint against Tillinghast.

In addition, Colonial filed a claim with the Cincinnati Insurance Company under its existing D&O policy, seeking indemnification from the class action suit. However, Cincinnati has failed to honor its policy, refusing to indemnify or defend Colonial's directors from liability. Thus, on March 13, 2002, Colonial filed a Third-Party Complaint against Cincinnati seeking to enforce its D&O policy.

The court initially scheduled February 18, 2003, as the trial date for the consolidated class actions. However, once Colonial entered rehabilitation, all legal proceedings against Colonial were stayed pursuant to R.C. 3903.15. On September 10, 2003, the court referred the case to mediation which will be held on either December 11 or 12, 2003.

The pendency of the class action is adversely affecting Colonial's financial situation. One effect is the limitation placed on Colonial to pursue any capital raising ventures, such as selling the existing blocks of its business. Other insurers do not want to purchase a lawsuit

without indemnification, which Colonial is not in a financial position to give. Additionally, the costs to defend the case are diverting the assets Colonial needs to satisfy its obligations to its remaining policyholders.

If Colonial were found liable, it has no financial resources from which to pay the Plaintiffs, without an assessment of policyholders. Since it has no other capital raising avenues available, Colonial would have no other financial option but to assess its policyholders to pay for any judgment awarded to the Plaintiffs. See attached Exhibit B, *Aff. Douglas Hertlein* ¶ 3 (Oct. 14, 2003). This would result in the bizarre situation of the plaintiffs, as policyholders, paying themselves, less their attorneys' fees. *Aff. Rudmose* ¶ 16.

### ***5. Colonial's Rehabilitation***

On January 16, 2003, Colonial was placed into rehabilitation by this Court following the Superintendent's filing of a rehabilitation complaint. At that time, the Court determined that Colonial met the statutory standard of rehabilitation: Colonial's continued transaction of business would be financially hazardous to its policyholders, creditors, and the public. R.C. 3903.12(A). After exploring several options, the Rehabilitator has now prepared the initial rehabilitation plan. The Plan is designed to address the major questions facing Colonial: (i) how would Colonial's CC policyholders maintain their coverage?; (ii) how would any continuation of coverage be funded without the availability of an insurance guaranty fund to protect the policyholders?; and (iii) how would Colonial avoid the disadvantages inherent in a liquidation of its business? To satisfactorily answer these questions, the Plan contains six key provisions:

1. Colonial's CC line of business will continue in runoff, allowing all existing CC policyholders to maintain their coverage;

2. Colonial's MS line of business will be sold immediately as an entire block to another insurer, allowing all existing MS policyholders to maintain their coverage;
  3. The class action Plaintiffs' will be assigned both Colonial's outstanding claim under its existing Directors and Officers ("D&O") liability policy and its claims against Tillinghast, in return for the class action Plaintiffs' release of Colonial from liability and Colonial's board of directors from all personal liability;
  4. Colonial's MS agents will be paid their accrued commissions. Colonial's CC agents will receive their accrued commissions following payment of all CC policy liabilities;
  5. As Colonial's volume of transactions and work load decreases, Colonial's employees will be terminated and given an industry standard severance package; and
  6. All of Colonial's administrative expenses will continue to be paid as they are incurred.
- See Plan of Rehabilitation.

The Plan and its benefits to all of the interested parties are described in more detail in the Section II Analysis below.

## II. ANALYSIS

### *1. Legal Authority for Colonial's Proposed Rehabilitation Plan*

There is a dearth of published insurer rehabilitation cases in Ohio. Thus, in addition to Ohio cases, to fully understand the requirements of a rehabilitation plan, one must examine the Ohio rehabilitation statute, the rehabilitation cases from other states, and general bankruptcy concepts. As States, like Ohio, that adopted the "Insurers Rehabilitation and Liquidation Model Act," as drafted by the National Association of Insurance Commissioners, provide guidance for this Court, this brief will analyze similar rehabilitation cases from those States.<sup>8</sup>

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<sup>8</sup> The cases cited to as authority were selected from states that have adopted the NAIC Model Act: Georgia, Kentucky, New Jersey, North Carolina, Pennsylvania, and South Carolina.

A. General Authority for Rehabilitation of Insurance Company

In Ohio, an insurer's rehabilitation is governed by R.C. 3903.01 to 3903.59: "The Insurers Supervision, Rehabilitation, and Liquidation Act." The purpose of an insurer's rehabilitation is to protect "the interests of insureds, claimants, creditors, and the public generally, with minimum interference with the normal prerogatives of the owners and managers of insurers." R.C. § 3903.02(D); *Markowitz v. Ohio Dept. of Ins.* (2001), 144 Ohio App.3d 155, 162, 759 N.E.2d 838; *Boedeker v. Rogers* (2000), 140 Ohio App.3d 11, 22, 746 N.E.2d 625. The Superintendent does not need to wait until an insurer is insolvent to initiate rehabilitation: "when an insurance company gets into financial difficulties, something must be done to remedy the situation. The Commissioner need not wait until disaster deepens or until the insurer is hopelessly insolvent." *Kentucky Cent. Life Ins. Co. v. Stephens* (Ky. 1995), 898 S.W.2d 83, 86. Rather, rehabilitation is allowed when: (1) the further transaction of business by an insurer would be financially hazardous to its policyholders, creditors or the public, and (2) the board of directors or a majority of shareholders consent to rehabilitation. R.C. 3903.12(A)-(L). If the Superintendent believes an insurer's rehabilitation is warranted, he or she may seek a court order authorizing rehabilitation. R.C. 3903.12; *Fabe v. Prompt Fin. Inc.* (1994), 69 Ohio St.3d 268, 273, 631 N.E.2d 614.

Once the court has granted a rehabilitation order, the ensuing rehabilitation process is governed by R.C. 3903.13 to 3903.16. The Superintendent, as Rehabilitator, is given "broad discretionary and equitable powers relating to the supervision, rehabilitation and liquidation of insurance companies." *Fabe*, 69 Ohio St.3d at 273. Accordingly, pursuant to R.C. 3903.02(C), the statutory rehabilitation provisions are liberally construed to grant the Rehabilitator wide latitude in managing an insurer's rehabilitation. The Rehabilitator has the power to prepare a

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plan for any reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer, subject to court approval. R.C. 3903.14(D).

#### B. Standard of Review for a Rehabilitation Plan

A rehabilitation plan must be fair and equitable to all concerned parties before it will be upheld by a court. *Koken v. Fid. Mut. Life Ins.* (Pa. 2002), 803 A.2d. 807. When evaluating the overall rehabilitation plan, courts employ the following standard: has the rehabilitator abused his or her discretion in the formulation of the rehabilitation plan. *Id.*; See *Ratchford v. Proprietors' Ins. Co.* (1989), 47 Ohio St.3d. 1, 3, 546 N.E.2d 1299 (a liquidator has broad general authority and responsibility subject only to judicial review to assure there is no fraud or abuse of discretion). The abuse of discretion standard also applies to individual provisions of the rehabilitation plan. See e.g. *Stephens*, 898 S.W.2d at 86 (applying the abuse of discretion standard to evaluate the rehabilitator's sale of insurer's real estate assets); *Muir v. Transp. Mut. Ins. Co.* (Pa.Cmmw. 1987), 523 A.2d 1190, 1192 (rehabilitator's establishment of cutoff date for valuing claims was not arbitrary or an abuse of discretion). The primary function of the court during rehabilitation is the final approval or rejection of the rehabilitation plan. Despite the need for court approval of the rehabilitation plan, courts carefully avoid substituting judicial discretion for administrative discretion. See e.g. *State ex rel. DeMuth v. State Bd. of Edn.* (1996), 113 Ohio App.3d 430, 680 N.E.2d 1314.

Any matters not traditionally considered within the Rehabilitator's expertise that are included in the rehabilitation plan, are also subject to the abuse of discretion standard. *Koken*, 803 A.2d. at 812. Courts acknowledge that the "[Rehabilitator] must be afforded that freedom of action in the over-all management of the company which will permit [her] to knowledgeably evaluate, plan, devise, and implement a program which in [her] best judgment and in keeping

with [her] expertise in the field of insurance will accomplish the objective of the [rehabilitation] proceeding." *Foster*, 614 A.2d at 1093 (quoting with approval *Kueckelhan v. Fed. Old Line Ins. Co.* (Wash.1968), 444 P.2d 667). Thus, courts give deference to the manner in which the Rehabilitator proceeds unless the methods of implementation are not fair and equitable. *LaVecchia v. HIP of N.J., Inc.* (N.J.Super. 1999), 734 A.2d 361, 364.

**2. Colonial's Rehabilitation Is Fair and Equitable, Not an Abuse of Discretion, and Must Be Ratified by This Court.**

Colonial's Plan is fair and equitable. Specifically, the Plan: (1) adequately represents all interested parties; (2) maintains the CC policyholders' existing coverage; (3) maintains the MS policyholders' existing coverage; and (4) provides for payments to all of Colonial's other creditors and agents. Each of these points is discussed in more detail below.

**A. The Rehabilitation Plan Provides Fair Representation and Notice to All Interested Parties**

Under the Plan, all parties are fairly represented. Pursuant to R.C. 3903.14(D), the court may institute "such notice and hearings as [it] may prescribe" to interested parties. While no specific provision exists in the statute for notice to and representation of potential claimants, the statute leaves such determinations to the court's discretion. *O'Neal v. Oxendine* (Ga.App. 1999), 514 S.E.2d 908, 911.

In the present case, all of Colonial's insurance agents, vendors, creditors, and policyholders will be given notice of the Plan. The notice will include a notice letter and a copy of the Plan. In the notice, interested parties are informed of: (1) the procedure for filing objections; and (2) the hearing date for consideration of the Plan and all objections to the Plan. This notice and opportunity to be heard by all interested parties more than adequately addresses the interests of notice and fair representation.

B. The Plan Protects the Interests of All Existing CC Policyholders

The Plan's proposed CC runoff envisions that all policy benefits will be paid out to all future claimants. In some situations, the Ohio Life and Health Insurance Guaranty Association ("OLHIGA") provides a safety net for policyholders when their health insurer becomes insolvent. R.C. 3956 et al. OLHIGA steps into the shoes of the insurer, with all rights, duties, and obligations of the insolvent insurer. *Maytag v. Tenn. Ins. Guar. Assn.* (1992), 79 Ohio App.3d 817, 821, 608 N.E.2d 772. However, OLHIGA's coverage does not apply to mutual protective associations. R.C. 3956.01. In the present case, Colonial's CC run-off is designed to perform the same function normally fulfilled by OLHIGA. The run-off is designed to maintain coverage of Colonial's policyholders and maximize the use of Colonial's existing assets to fulfill its contractual obligations to its policyholders. *Aff. Rudmose* ¶ 17.

Furthermore, the Plan fulfills the most important priority of any rehabilitation: the protection of Colonial's existing policyholders. The Rehabilitator has broad authority to do what is in the best interest of all policyholders. R.C. 3903.14; See also *Ins. Commr. of S.C. v. New South Life Ins. Co.* (S.C. 1978), 248 S.E.2d 591, 593. The Rehabilitator is best positioned to protect policyholders since he or she has no special interest except to reach the best possible outcome for all interested parties. *Minor v. Stephens* (Ky. 1995), 898 S.W.2d 71, 76.

While the rehabilitation provisions of the Revised Code are silent as to the prioritization of an insurer's assets in a rehabilitation, one can examine the liquidation class priorities for guidance as to priorities. R.C. 3903.42. Courts have noted that liquidation provisions can be used as a model for rehabilitation; the statutory language "in connection with any action or proceeding under §§ 3903.01 to 3903.59" does not limit liquidation actions to only liquidation.

R.C. 3903.30; *Foster*, 614 A.2d at 1096. The satisfaction of claims set out by the liquidation statute is:

1. The costs and expenses of insurer administration.
2. All claims under policies for losses incurred.
3. Federal government claims.
4. Debts due employees for services rendered.
5. General creditors.
6. State and local government claims.
7. Claims filed late and any other claims not in Class 8 or 9.
8. Surplus or contribution notes and premium refunds on assessable policies.
9. Shareholders and other owners.

Courts categorize an insurer's policyholders as Class 2 claimants to ensure that policyholders' interests are protected above all other claimants. *Grode*, 572 A.2d at 801, n. 5; See *State ex. rel Long v. Beacon Ins. Co.* (N.C.App. 1987), 359 S.E.2d 508.

The benefits to the existing CC policyholders outlined in the Plan include the maintenance of existing coverage and the maximization of Colonial's assets to enable the payment of all current and future CC claims. Policyholders with existing claims have priority to Colonial's assets. Each existing policyholder is projected to continue to receive CC coverage under the Plan. Based on reasonable assumptions regarding termination rates, shock lapse, rate increases, aging, and loss ratios, the CC run-off is projected to provide the requisite assets needed by Colonial to satisfy its CC obligations until the very last claim is paid out to existing CC policyholders.<sup>9</sup> Aff. *Rudmose* ¶ 18. Ultimately, all current CC policyholders are expected to

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<sup>9</sup> Colonial's actuarial projections were prepared by Colonial's appointed actuary, Glenn A. Tobleman. See Aff. Glenn Tobleman ¶¶ 1-5 (Oct. 13, 2003), accompanying the submission of Colonial's Rehabilitation Plan.

receive their bargained for insurance benefits under the Plan, to the extent possible from the available assets of Colonial.

C. The Plan Provides for a Continuation of MS Coverage

The Plan allows for the continuation of MS policyholder coverage. The best mechanism to achieve this goal is to find an alternative insurer for the entire group of MS policyholders. The Rehabilitator intends to sell the MS block as soon as practical after court approval of the Plan. The timing is aggressive, and a public bid for the MS block will not be feasible because any process of soliciting bids or delay would result in a probable loss of continued coverage for MS policyholders. The MS insurance agents would have time to "cherry pick" the most profitable policyholders from the MS block and move those individual policies to other insurers. With the most profitable policyholders abandoning the MS block, the remaining policyholders would not be as attractive to a potential purchaser and thus bring in less value for Colonial. Instead, the Plan would dispose of Colonial's MS block in much the same way as a secured transaction private sale. See R.C. 1309 et al.

D. The Plan Provides for Payment of Agent Commissions

One point of the Plan is that the insurance agents responsible for CC coverage would not immediately receive their accrued or future renewal commissions. Previous courts have ruled against agents seeking payment of accrued commissions, reasoning that their commissions had become general assets of the insurer. *Four Star Ins. Agency, Inc. v. Hawaiian Elec. Indus., Inc.* (Hawaii 1999), 974 P.2d 1017. The accrued commissions for the CC coverage have become past due. *Aff. Rudmose* ¶ 19. Accordingly, these past due amounts that Colonial owes to agents for accrued commissions are converted to Class 5 claims under a liquidation priority. *Aff. Hertlein* ¶ 16. Using the Plan's assumptions for the run-off of the CC business, Colonial's current assets

are inadequate to pay the commissions because Colonial needs all of its assets to pay current and future CC claimants. Aff. Rudmose ¶ 20. Nevertheless, this is a fair and equitable solution because the agents would fare no better in liquidation. When the interested parties will fare at least as well in rehabilitation as compared with liquidation, rehabilitation is an appropriate remedy. *Neblett v. Carpenter* (1935), 305 U.S. 297, 59 S.Ct. 170, 83 L.Ed. 182. Accordingly, the Plan provides for the payment of any commissions owed to CC agents from any assets remaining following the CC run-off.

E. The Class Action Plaintiffs Will Be Assigned Colonial's Existing Claims under Its D&O Liability Policy and Against Tillinghast

Under the Plan, the class action Plaintiffs, in exchange for releasing Colonial and the individual Board of Directors from any liability, will be assigned Colonial's D&O liability policy claim and Colonial's outstanding liability claim against Tillinghast. This is the best possible resolution of the class action proceeding for all parties. Aff. Hertlein ¶ 2. Colonial has no assets to satisfy a judgment if the Plaintiffs' class action were to be successful. Colonial is already insolvent and has no available assets to pay any judgment. Further, due to Colonial's MPA financial structure, the only way for Colonial to pay a judgment is to assess its members. However, the Plaintiffs in this case are Colonial's members. Thus, Plaintiffs would only succeed in being forced to pool their own resources to pay themselves the judgment awarded by the court, less their attorneys' fees.

Instead, under the Plan, the Plaintiffs' will receive two financial assets in consideration for dropping their claims against Colonial and the individual board members: Colonial's D&O liability policy and Colonial's outstanding liability claim against Tillinghast.

Moreover, the settlement of the class action under the terms of the Plan will ensure that Colonial avoids liquidation. If Colonial is forced to continue defending against the class action

suit and ultimately has a substantial judgment rendered against it in favor of the Plaintiffs, it would have little choice but to be placed into liquidation. Aff. Hertlein ¶ 4. Liquidation is a no-win situation for the Plaintiffs. All of the Plaintiffs' existing policies would be canceled and the Plaintiffs would be left with no insurance and receive no money, if any, till all policies and any other claims are paid in full. (See the next section for a detailed explanation). Aff. Hertlein ¶ 5. Instead, the settlement of the class action under the Plan provides the Plaintiffs the best opportunity to receive compensation and keep their insurance policies.

**F. Colonial's Administrative Expenses and Rehabilitation Costs Will Be Funded by the Plan**

Under the Plan, all of Colonial's current and future administrative expenses will be paid. Under either a rehabilitation or liquidation, the first class of claims that must be paid are the insurer's administrative expenses. See R.C. 3903.14; R.C. 3903.42. Administrative expenses include the insurer's normal operating expenses, any and all expenses incurred by the Rehabilitator to take possession and conduct the rehabilitation proceedings, and reasonable attorney's fees. Id. Pursuant to the applicable Ohio statutes, the Plan provides for the satisfaction of both Colonial's operating expenses and all costs associated with Colonial's rehabilitation.

***3. Colonial's Rehabilitation is Fairer to Policyholders than Its Liquidation***

By adopting R.C. 3903.01 to 3903.59, the Ohio legislature vested the Rehabilitator with the exclusive authority to choose between rehabilitation or liquidation of troubled insurance companies. When the choice of rehabilitation versus liquidation is challenged by an interested party, courts have deferred to the Rehabilitator's judgment. See *Ruthardt v. Monarch Life Ins. Co.* (Mass. 1994), No. 94-268; *Grode v. Mut. Fire, Marine and Inland Ins. Co.* (Pa. 1990), 572 A.2d 798. The following have been acknowledged as reasons why a rehabilitation of an insurer is preferred over its liquidation:

1. Rehabilitation is a more flexible process that avoids the inherent delays and static, cumbersome procedures of a statutorily-regulated liquidation. *Grode*, 572 A.2d at 803.

2. Interested parties (e.g. claimants and creditors) fare better in rehabilitation than liquidation. *Id.* Since the parties will fare at least as well in rehabilitation as compared to liquidation, rehabilitation is an appropriate remedy. *Neblett*, 305 U.S. at 297.

3. A rehabilitation plan does not have to restore the insurer to its original condition. Rather, courts have recognized that rehabilitation is appropriate despite the winding-up of the insurer's business; the Rehabilitator only has to equitably administer and properly conserve the insurer's assets for the public good. *Foster*, 614 A.2d at 1094. Further, a rehabilitation plan complies with this principle even if it results in a de facto liquidation. *Id.*

4. The Rehabilitator has broader discretion to tailor a rehabilitation plan to meet the peculiarities of a particular insurer's plight than a statutorily-controlled liquidation plan. *Grode*, 572 A.2d at 804.

5. The courts are positioned to provide any needed procedural safeguards to check any discretionary abuse of the Rehabilitator. *Id.* The *Grode* court upheld the Rehabilitator's rehabilitation plan, noting that it was within the discretion of the Rehabilitator to rehabilitate an insurer that is adjudged to be insolvent; liquidation is not mandated for an insolvent insurer. *Id.*

A. The Advantages of Colonial's Rehabilitation Outweigh its Liquidation

If this Court rejects the proposed Plan, the Rehabilitator would have no choice but to begin a liquidation of Colonial. *Aff. Hertlein* ¶ 11. Colonial is insolvent and a hazard to its policyholders, creditors, and the public. A rehabilitation of Colonial is a more fair and equitable

solution than a liquidation. Aff. Hertlein ¶ 12. First, the primary priority of the Plan is to ensure that Colonial's policyholders are able to maintain their coverage. Under a liquidation, Colonial's policyholders face the certainty that their policies would be cancelled and thus the policyholders would have no coverage. R.C. 3903.19. They would have claims against the liquidation estate, but that would not provide the same benefit as having ongoing coverage. Colonial's CC coverage is guaranteed renewable coverage which requires Colonial to renew each policyholder's policy each year. Due to their age, most, if not all policyholders, would be unable to qualify for other long-term care insurance. Aff. Rudmose ¶ 12. Thus, the rehabilitation of Colonial appears to provide the only mechanism for the policyholders to continue receiving the CC coverage for which they paid. Aff. Hertlein ¶ 14.

Second, the settlement of the class action under the Plan provides the Plaintiffs their best opportunity to receive compensation and keep their insurance, protecting the class action Plaintiffs' interests to a greater degree than a liquidation. Aff. Hertlein ¶ 6. If Colonial were liquidated, the Plaintiffs have to comply with the following liquidation process in an attempt to assert their interests:

1. The class action claim would have to be submitted to the Liquidator;
2. The Liquidator would value the claim. The Liquidator most likely would not agree that the Plaintiffs have a valid claim against Colonial, and would assign a \$0.00 value to the class action Plaintiffs' claim;
3. If the class action Plaintiffs object to the valuation, there would be a hearing where they could challenge the valuation before the Liquidation court;
4. The Liquidation court would then decide the ultimate value of the claim.

There is a high probability that the court would value the claim at less than the Plaintiffs would receive under this rehabilitation plan. Aff. Hertlein ¶ 7-8.

Moreover, under any liquidation scheme, the Plaintiffs would become general creditors. Yet, there would be no money paid out to the Plaintiffs until the last valid policy obligation was satisfied by Colonial's remaining assets. Aff. Hertlein ¶ 9. Otherwise, the liquidator would risk having insufficient assets to satisfy all future claims. Further, under R.C. 3903.42, the liquidator cannot create any subclasses of claimants; this would occur if all claimants were not paid at the same time. Aff. Hertlein ¶ 10. Accordingly, until all claims were made by existing policyholders, no payment of Colonial's assets is allowed to any claimant other than for administrator expenses. Aff. Rudmose ¶ 16. Thus, the Plaintiffs would receive no money, if any, until all policy claims were paid in full.

Colonial's rehabilitation is preferred to its liquidation: (1) Rehabilitation provides a flexible and efficient mechanism for the management of Colonial's business by the Rehabilitator; (2) Rehabilitation protects Colonial's current policyholders by allowing them to maintain their present insurance coverage; and (3) Rehabilitation allows the class action Plaintiffs to receive compensation in the form of Colonial's D&O liability policy claim and Colonial's liability claim against Tillinghast assuming they ultimately prevail on their claims or negotiate a settlement.

### CONCLUSION

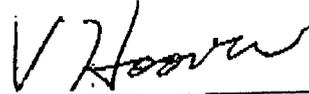
For the foregoing reasons, Plaintiff requests that this Court grant its motion for approval of the Rehabilitation Plan for Colonial, pursuant to R.C. 3903.13(D).

Respectfully Submitted,

**JIM PETRO**  
**ATTORNEY GENERAL STATE OF OHIO**

**By Special Counsel:**

**KOHRMAN JACKSON & KRANTZ, P.L.L.**



VALORIA C. HOOVER (0059596)

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Special Counsel for Plaintiff,  
Ann H. Womer Benjamin, Superintendent,  
Ohio Department of Insurance, in her  
Capacity as Rehabilitator of  
Colonial Insurance Company

SCOTT MYERS (0040686)  
LAWRENCE D. PRATT (0021870)  
Assistant Attorneys General  
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Telephone: (614) 466-8600  
Facsimile: (614) 466-6090  
Co-counsel for Plaintiff,  
Ann H. Womer Benjamin

**CERTIFICATE OF SERVICE**

A copy of the foregoing Motion for Approval of the Rehabilitation Plan for the Colonial Insurance Company has been served by Regular U.S. Mail, postage prepaid, on this 16 day of October, 2003 to the following:

Paul A. Chalko  
880 E. 185th St.  
Cleveland, OH 44119-2797  
Attorney for the Board of Directors  
of Colonial Insurance Company

  
\_\_\_\_\_  
VALORIA C. HOOVER (#0059596)

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO  
CIVIL DIVISION

ANN H. WOMER BENJAMIN,  
Superintendent,  
Ohio Department of Insurance, in her Capacity  
as Rehabilitator of Colonial  
Insurance Company

Plaintiff,

v.

COLONIAL INSURANCE COMPANY,  
(In Rehabilitation)

Defendant.

CASE NO. 03 CVC 01 00597

JUDGE DAVID FAIS

AFFIDAVIT OF DANA W.  
RUDMOSE

STATE OF OHIO )  
 ) SS:  
COUNTY OF FRANKLIN )

Affiant, Dana W. Rudmose, being duly sworn in accordance with law, deposes and states as follows:

1. My name is Dana W. Rudmose, and I have been appointed as a Deputy Rehabilitator for the Ohio Department of Insurance ("DOI"). I am a principal in the regulatory consulting firm of Rudmose & Noller Advisors, LLC with offices located at 5203 Darry Lane, Dublin, Ohio, 43016. I am a certified public accountant licensed in the state of Ohio since 1983.

2. I drafted the Colonial Insurance Company's ("Colonial") Rehabilitation Plan ("Plan").

3. A true and accurate copy of the Plan I prepared is attached as Exhibit A to this Affidavit.

4. Colonial's policyholders are exclusively senior citizens.

5. In accordance with the terms of the Supervision Order dated November 29, 2000, Colonial has not issued any new insurance policies since May 2001.

6. Since May 2001, Colonial's income has been generated solely by policy renewal business and investment income.

7. Colonial's premium income has declined over the last two years, due to policy lapses, policyholders choosing to not renew their Colonial policies, and existing policyholders' deaths.

8. Colonial's Convalescent Care ("CC") revenues continue to show a steady decline because no new CC policies have been issued and, consequently, no new policyholders have been added to the CC reserve pool.

9. As of December 31, 2002, Colonial had 1,190 outstanding CC policies with an aggregate reserve of \$4,007,000, or an average outstanding reserve of approximately \$3,400 per policy.

10. Approximately one-half of the outstanding policies (635) contain an automatic inflation rider that increases the daily policy benefit by a defined percentage each year the policy is in effect to keep pace with increasing health care costs resulting from inflation.

11. As of December 31, 2002, Colonial had 76 CC policies in claims paying status. The unpaid claim reserves for those policies were \$2,656,000, or approximately \$35,000 per reported claim.

12. Due to their age, most, if not all policyholders, would be unable to qualify for other long-term care insurance.

13. As of December 31, 2002, Colonial had 2,986 outstanding Medicare Supplement ("MS") policies with an average reserve of \$230 per policy.

14. The MS line of business is Colonial's primary source of premium revenue accounting for approximately 70% of all premiums received by Colonial.

15. Colonial's MS block of business is also in runoff.

16. If Colonial were to be found liable in the *Nunneker* class action, it has no financial resources from which to pay the Plaintiffs without an assessment of policyholders. This would result in a situation where the plaintiffs, as policyholders, would be paying themselves.

17. In the present Plan, Colonial's CC run-off is designed to maintain coverage of its policyholders and maximize the use of its existing assets to fulfill its contractual obligations to its policyholders.

18. Based on reasonable assumptions regarding termination rates, shock lapse, rate increases, aging, and loss ratios, the CC run-off is projected to provide the requisite assets needed by Colonial to satisfy its CC obligations until the final claim is paid to existing CC policyholders.

19. The accrued commissions for the CC coverage are past due.

20. Using the Plan's assumptions for the run-off of the CC business, Colonial's current assets are inadequate to pay the commissions because Colonial needs all of its assets to pay current and future CC claimants.

21. Colonial is operating in hazardous financial condition and therefore is a risk to its policyholders, creditors, and the public.

FURTHER AFFLIANT SAYETH NAUGHT.

*Dana W. Rudmose*  
DANA W. RUDMOSE

SWORN TO BEFORE ME AND SUBSCRIBED in my presence this 13<sup>th</sup> day  
of October, 2003.

*Cathe E. Harris*  
NOTARY PUBLIC

**CATHE E. HARRIS**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 11-07-07

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO  
CIVIL DIVISION

ANN H. WOMER BENJAMIN,  
Superintendent,  
Ohio Department of Insurance, in her Capacity  
as Rehabilitator of Colonial  
Insurance Company

Plaintiff,

v.

COLONIAL INSURANCE COMPANY,  
(In Rehabilitation)

Defendant.

CASE NO. 03 CVC 01 00597

JUDGE DAVID FAIS

AFFIDAVIT OF DOUGLAS  
L. HERTLEIN

STATE OF OHIO )

COUNTY OF CUYAHOGA )

SS:

Affiant, Douglas L. Hertlein, being duly sworn in accordance with law, deposes  
and states as follows:

1. My name is Douglas L. Hertlein and I am the Chief Deputy Rehabilitator appointed by Ann H. Womer Benjamin, Superintendent for the Ohio Department of Insurance. This Affidavit is in support of the "Motion for Approval of the Rehabilitation Plan for the Colonial Insurance Company" and the defined terms in that Motion are used herein.
2. The Plan provides the best possible resolution of the class action proceeding for all parties.
3. Because Colonial has a MPA financial structure, the only way for Colonial to pay a judgment is to assess its members.

4. If a substantial judgment is entered against Colonial in favor of the class action Plaintiffs, Colonial would have little choice but to be placed into liquidation.

5. In liquidation, all of the class action Plaintiffs' existing policies would be canceled and they would be left with no insurance under those policies. Plaintiffs' class action claims would be classified as Class 5 general creditor claims of Colonial under the liquidation priority statute.

6. The settlement of the class action under the Plan provides the class action Plaintiffs their best opportunity to receive compensation and keep their insurance, protecting the class action Plaintiffs' interests to a greater degree than a liquidation.

7. If Colonial were liquidated, the class action Plaintiffs have to comply with the following liquidation process in an attempt to assert their interests: (1) the class action claim would have to be submitted to the Liquidator; (2) the Liquidator would review the claim, but would probably not agree that the class action Plaintiffs have a valid claim against Colonial, assigning a \$0.00 value to the class action claim; (3) if the class action Plaintiffs object to the valuation, there would be a hearing where they could challenge the valuation before the Liquidation Court; (4) the Liquidation Court would then decide the ultimate value of the claim.

8. There is a high probability that the Liquidation Court would value the claim at less than the class action Plaintiffs would receive under the proposed rehabilitation plan.

9. In liquidation, there would be no money paid out to Class 5 claims until all valid policy obligations are satisfied by Colonial's remaining assets.

10. Under R.C. 3903.42, the liquidator cannot create any subclasses of claimants; this could occur if all similarly classified claimants were not paid at the same time.

11. If this Court rejects the proposed Plan, the Rehabilitator would have little choice but to begin a liquidation of Colonial.

12. A rehabilitation of Colonial is a more fair and equitable solution than a liquidation.

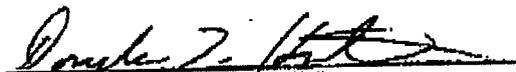
13. Rehabilitation provides the Superintendent greater flexibility in responding to Colonial's unique situation than Liquidation.

14. Colonial's rehabilitation appears to provide the only mechanism for the policyholders to continue receiving the CC coverage for which they paid.

15. In liquidation, until all Class 2 policyholder claims are paid, no payment of Colonial's assets would be allowed to any lower classified claimant. Other than administrative expenses, all other non-policyholder claims are classified below Class 2 policyholder claims.

16. Past due amounts that Colonial owes to agents for accrued commissions will be classified as Class 5 general creditors claims under the liquidation priority statute.

FURTHER AFFIANT SAYETH NAUGHT.

  
DOUGLAS L. HERTLEIN

SWORN TO BEFORE ME AND SUBSCRIBED in my presence this 14<sup>th</sup> day  
of October, 2003.

  
NOTARY PUBLIC



JULIE A. SNYDER  
Notary Public, State of Ohio  
My Commission Expires  
August 18, 2008

## Case Docket Listing

Case Number:		CV-00-412736		
Case Title:		MARY E NUNNEKER INDIV AND ON BEHALF OF ALL OTHERS vs. COLONIAL INSURANCE COMPANY		
Date	Side	Type	Description	Image
09/10/2003	N/A	JE	PRE TRIAL CONFERENCE HELD ON 09/08/2003. DEFENDANT COLONIAL IS IN REHABILITATION. COURT SHALL APPOINT SPECIAL MASTER TO MEDIATE DISPUTE AMONG THE PARTIES, TO ATTEMPT TO PRODUCE A SETTLEMENT, AND, IF A SETTLEMENT IS REACHED, TO SUBMIT A MEMORANDUM TO THE COURT SETTING FORTH WHY THE SETTLEMENT IS FAIR AND REASONABLE. COSTS OF MEDIATION TO BE SHARED EQUALLY BY THE PARTIES SUBJECT TO THE CONSENT OF THE REHABILITATOR FOR COLONIAL. MEDIATION TO BE CONDUCTED BY 12-15-03. PARTIES SHALL SUBMIT RECOMMENDATION BY 9-15-03. BOOK 2988 PAGE 0385 09/10/2003 NOTICE ISSUED	N/A
09/09/2003	N/A	JE	DEFENDANT'S MOTION TO CONTINUE PRETRIAL CONFERENCE, FILED 08/03/2003, IS DENIED. BOOK 2987 PAGE 0405 09/09/2003 NOTICE ISSUED	N/A
09/09/2003	N/A	JE	DEFENDANT'S MOTION TO EXCUSE PRESENCE AT PRETRIAL CONFERENCE, FILED 08/28/2003, IS GRANTED. BOOK 2987 PAGE 0403 09/09/2003 NOTICE ISSUED	N/A
09/02/2003	D1	MO	MOTION TO WITHDRAW AS SPECIAL COUNSEL FOR DEFENDANTS FILED.... MARK S BENNETT (0069823)	N/A
08/28/2003	D3	MO	3RD PARTY DEFT THE CINCINNATI INSURANCE CO'S MOTION TO EXCUSE PRESENCE AT PRETRIAL CONFERENCE. DARIUS N KANDAWALLA (0066487) 09/09/2003 - GRANTED	N/A
08/28/2003	D1	OT	NOTICE OF APPEARANCE OF SPECIAL COUNSEL. VALORIA HOOVER (0059596)	N/A
08/03/2003	D1	MO	MOTION TO CONTINUE PRETRIAL CONFERENCE. VALORIA HOOVER (0059596) 09/09/2003 - DENIED	N/A
07/16/2003	D1	BR	D1 COLONIAL INSURANCE COMPANY DEFTS/THIRD PARTY PLTFS' BRIEF IN OPPOSITION TO THIRD PARTY DEFT'S MOTION FOR SUMMARY JUDGMENT AND DEFTS' CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT..... MARK S BENNETT 0069823	N/A
06/23/2003	N/A	JE	PRE-TRIAL PREVIOUSLY SCHEDULED FOR 08/05/2003 AT 01:30 PM IS RESCHEDULED FOR 09/08/2003 AT 02:00 PM. BECAUSE THE JUDGE IS ON VACATION, PT SET 8-5-03 IS RESET TO 9-8-03 AT 2:00PM. ALL CLIENTS MUST BE PRESENT. BOOK 2948 PAGE 0310 06/23/2003 NOTICE ISSUED	N/A
06/19/2003	N/A	SC	PRE-TRIAL SCHEDULED FOR 08/05/2003 AT 01:30 PM IS CANCELLED. JUDGE: BURT W GRIFFIN (030) REASON: BECAUSE THE JUDGE IS ON VACATION, PT SET 8-5-03 IS RESET TO 9-8-03 AT 2:00PM. ALL CLIENTS MUST BE PRESENT (notice sent).	N/A
06/05/2003	N/A	JE	CASE MGMNT CONFERENCE HELD ON 06/02/2003. PARTIES ANTICIPATE EXTENSION OF STAY THROUGH JULY. PRETRIAL SET FOR 08/05/2003 AT 01:30 PM. ALL CLIENTS MUST BE PRESENT. BOOK 2940 PAGE 0535 06/05/2003 NOTICE ISSUED	N/A
			NOTICE OF APPEARANCE OF SPECIAL COUNSEL. AS APPOINTED BY	

05/13/2003	D1	OT	OHIO ATNY.GEN. JIM PETRO FOR DEFTS COLONIAL INSUR.CO. NANCY HOLZ AND MARK FORRESTER, RALPH KOVANDA AND CATHLEEN DELANEY.. MARK S BENNETT (0069823)	N/A
03/04/2003	N/A	JE	CASE STAYED PER AGREED ORDER APPOINTING REHABILITATOR ISSUED BY THE FRANKLIN COUNTY COURT OF COMMON PLEAS IN 03CVCO1 00597 ON 01/16/2003. BOOK 2890 PAGE 0473 03/04/2003 NOTICE ISSUED	N/A
02/05/2003	N/A	JE	MOTION FOR CONTINUANCE GRANTED. TRIAL SET 2-18-03 CANCELLED. CMC SET 6-2-03 AT 8:30AM. BOOK 2876 PAGE 0206 02/05/2003 NOTICE ISSUED	N/A
02/01/2003	N/A	SC	TRIAL SCHEDULED FOR 02/18/2003 AT 09:00 AM IS CANCELLED. JUDGE: BURT W GRIFFIN (030) REASON: MOTION FOR CONTINUANCE GRANTED. CMC SET 6-2-03 AT 8:30AM (NOTICE SENT).	N/A
02/01/2003	N/A	SC	CASE MGMNT CONFERENCE SET FOR 06/02/2003 AT 08:30 AM. (NOTICE SENT).	N/A
01/27/2003	P	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESSES WILLIAM MUSULIN D JOEFF WILLIAMS JACK HARDING AND MIKE MOTTLE OR , ALTERNATIVE, FOR LEAVE TO CONDUCT DISCOVERY. JOSEPH N KRAVEC (9002538) 07/30/2003 - UNKNOWN	N/A
01/27/2003	P	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESS WILLIAM MUSULIN D JOEFF WILLIAMS JACK HARDING AND MIKE MOTTL OR ALTERNATIVELY FOR LEAVE TO CONDUCT DISCOVERY. JOSEPH N KRAVEC (9002538)	N/A
01/24/2003	PI	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS. PROPOSED WITNESSES WILLIAM B.MUSULIN,D.JOEFF WILLIAMS,JACK HARDING,AND MIKE MOTTL OR,ALTERNATIVELY,FOR LEAVE TO CONDUCT DISCOVERY.9002538 JOSEPH N KRAVEC (9002538) 07/30/2003 - UNKNOWN	N/A
01/24/2003	PI	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESSES WILLIAM B.MUSULIN,DJOEFF WILLIAMS,JACK HARDING AND MIKE MOTTL OR,ALTERNATIVELY FOR LEAVE TO CONDUCT DISCOVERY.. JOSEPH N KRAVEC (9002538)	N/A
01/24/2003	D1	CM	COMMUNICATION RE: CERT COPY OF FRANKLIN COUNTY CASE 03-CV001-00697 BY PAUL P.CHALKO...(W)...	N/A
01/21/2003	D3	MO	MOTION FOR SUMMARY JUDGMENT OF 3RD PARTY DEFT THE CINCINNATI INSUR.CO. DARIUS N KANDAWALLA (0066487) 07/30/2003 - UNKNOWN	N/A
01/17/2003	N/A	JE	THIRD-PARTY DEFT THE CINCINNATI INSURANCE COMPANY'S MTN FOR EXTENSION OF TIME TO FILE ITS MTN FOR SUMMARY JUDGMENT, FILED 12/16/2002, IS GRANTED. BOOK 2867 PAGE 0193 01/17/2003 NOTICE ISSUED	N/A
12/16/2002	D3	MO	D3 THE CINCINNATI INSURANCE COMPANY THIRD-PARTY DEFT THE CINCINNATI INSURANCE COMPANY'S MTN FOR EXTENSION OF TIM ETO FILE ITS MTN FOR SUMMARY JUDGMENT DARIUS N KANDAWALLA 0066487 01/17/2003 - GRANTED	N/A
12/16/2002	D3	AN	... ANSWER OF THIRD-PARTY DEFT THE CINCINNATI INSURANCE COMPANY. DARIUS N KANDAWALLA (0066487)	N/A

12/10/2002	N/A	JE	PTC HELD 12/05/2002. CINCINNATI INSURANCE TO FILE MSJ BY 12/20/2002. CMC SET FOR 01/06/2003 AT 9:30 A.M. BOOK 2849 PAGE 0659 12/10/2002 NOTICE ISSUED	N/A
12/06/2002	D	JE	MOTION OF THIRD PARTY DEFT CINCINNATI INSURANCE COMPANY TO STRIKE OR, IN THE ALTERNATIVE DISMISS THE THIRD PARTY COMPLAINT, IS HEREBY DENIED..SEE OPINION...VOL.2847 PGS.0807-0817 NOTICE ISSUED	N/A
12/05/2002	P	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY AS TO DEFTS PROPOSED EXPERT DAVID LEHMAN. GENE MESH (0002076)	N/A
12/05/2002	P	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY AS TO DEFTS PROPOSED EXPERT EDWARD MOHARIC.. GENE MESH (0002076)	N/A
12/05/2002	P	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY AS TO COLONIAL'S FINANCIAL CONDITION.. GENE MESH (0002076)	N/A
12/05/2002	P	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED EXPERT DAVID LEHMAN. GENE MESH (0002076) 07/30/2003 - UNKNOWN	N/A
12/05/2002	P	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF AS TO COLONIALS FINANCIAL CONDISTION. GENE MESH (0002076) 07/30/2003 - UNKNOWN	N/A
12/05/2002	P	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED EXPERT EDWARD PAUL MOHORIC. GENE MESH (0002076) 07/30/2003 - UNKNOWN	N/A
12/02/2002	D1	OT	PRETRIAL STATEMENT OF DEFTS COLONIAL INSURANCE CO,NANCY HOLZ,MARK FORRESTER,RALDPH KOVANDA & CATHLEEN DELANEY & WITNESS LIST FILED.....(W)...	N/A
11/26/2002	N/A	JE	DEFTS MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN OPPOSITION TO THIRD-PARTY DEFTS MOTION TO STRIKE OR DISMISS THIRD-PARTY COMPLAINT, FILED 06/10/2002, IS GRANTED. THE CINCINNATI INSURANCE COMPANY'S MOTION FOR LEAVE TO FILE REPLY BRIEF IN FURTHER SUPPORT OF THE CINCINNATI INSURANCE COMPANY'S MOTION TO STRIKE OR, IN THE ALTERNATIVE, DISMISS THE THIRD PARTY COMPLAINT, FILED 07/15/2002, IS GRANTED. BOOK 2843 PAGE 0759 11/26/2002 NOTICE ISSUED	N/A
10/23/2002	P1	OT	P 1 MARY E NUNNEKER IDENTIFICATION OF WITNESSES TO TESTIFY AT TRIAL..... JOSEPH N KRAVEC 9002538	N/A
09/11/2002	N/A	JE	DEFENDANT'S REQUEST FILED AUGUST 13, 2002 FOR ADDITIONAL TIME TO COMPLETE AND EXCHANGE EXPERT REPORTS IS GRANTED. BOOK 2805 PAGE 0574 09/11/2002 NOTICE ISSUED	N/A
08/21/2002	P1	OT	PLTFS' RESPONSE TO DEFTS' REQUEST FOR ADDITIONAL TIME TO COMPLETE AND EXCHANGE EXPERT REPORTS. JOSEPH N KRAVEC (9002538)	N/A
08/13/2002	D1	RE	D 1 COLONIAL INSURANCE COMPANY REQUEST FOR ADDITIONAL TIME TO COMPLETE AND EXCHANGE EXPERT REPORTS PAUL P CHALKO 0016598	N/A
08/12/2002	N/A	SC	TRIAL SET FOR 02/18/2003 AT 09:00 AM.	N/A
08/12/2002	N/A	SC	PRE TRIAL CONFERENCE SET FOR 12/15/2002 AT 04:00 PM.	N/A

07/24/2002	N/A	JE	CMC HELD ON 07/19/2002. CASE RECLASSIFIED AS COMPLEX LITIGATION. TRIAL OF 9/11/02 IS CANCELLED. PRETRIAL SET FOR 12/5/02 AT 4:00 P.M. TRIAL RESCHEDULED TO 2/18/03 AT 9:00 A.M. BOOK 2782 PAGE 0181 07/24/2002 NOTICE ISSUED	N/A
07/22/2002	N/A	SC	TRIAL SCHEDULED FOR 09/11/2002 AT 09:00 AM IS CANCELLED. (NOTICE SENT)	N/A
07/15/2002	D	BR	REPLY BRIEF IN SUPPORT OF THE CINCINNATI INSURANCE COMPANYS MOTION TO STRIKE OR, IN THE ALTERNATIVE DISMISS THE THIRD PARTY COMPLAINT FILED BY DEFTS/THIRD PARTY PLTFs..... DARIUS N KANDAWALLA (0066487)	N/A
07/15/2002	D3	MO	DARIUS N KANDAWALLA 0066487D 3 THE CINCINNATI INSURANCE COMPANYMOTION FO LEAVE TO FILE REPLY BRIEF IN FURTHER SUPPORT OF THE CINCINNATI INSURANCE COMPANY'S MOTION TO STRIKE OR, IN THE ALTERNATIVE, DISMISS THE THIRD PARTY COMPLAINT..... 11/26/2002 - GRANTED	N/A
07/02/2002	D1	BR	DEFTS' BRIEF IN OPPOSITION TO THIRD PARTY DEFTS' MOTION TO STRIKE AND/OR DISMISS THE THIRD PARTY COMPLAINT..... PAUL P CHALKO (0016598)	N/A
06/28/2002	P1	OT	JOSEPH N KRAVEC 9002538P 1 MARY E NUNNEKERREPORT OF PLTFs' CLASS COUNSEL CONCERNING PUBLICATION OF INDIVIDUAL AND SUMMARY CLASS NOTICE.....	N/A
06/25/2002	N/A	JE	PURSUANT TO LOCAL RULE 21, PART I, THE COURT WILL CONDUCT A CASE MANAGEMENT CONFERENCE ON 07/19/2002 AT 08:30 AM. DISCOVERY SCHEDULE, AMOUNT IN CONTROVERSY, EXCHANGE OF EXPERT REPORTS, DATE FOR FINAL PRETRIAL CONFERENCE, REFERRAL TO ARBITRATION, ETC., SHALL BE RESOLVED AND INCLUDED IN A BINDING DECREE AND ORDER FORMALIZED. ALL COUNSEL ATTENDING SHALL HAVE FULL AUTHORITY TO ENTER INTO A BINDING CASE MANAGEMENT ORDER. BOOK 2768 PAGE 0199 06/25/2002 NOTICE ISSUED	N/A
06/10/2002	D1	MO	DEFTS MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN OPPOSITION TO THIRD-PARTY DEFTS MOTION TO STRIKE OR DISMISS THIRD-PARTY COMPLAINT. PAUL P CHALKO (0016598) 11/26/2002 - GRANTED	N/A
05/28/2002	D3	MO	DARIUS N KANDAWALLA 0066487D 3 THE CINCINNATI INSURANCE COMPANYMOTION TO STRIKE OR IN THE ALTERNATIVE, DISMISS THE 3RD PARTY COMPLAINT FILED BY DEFTS/3RD PARTY PLTFs AGAINST THE CINCINNATI INSUR.CO 12/06/2002 - DENIED	N/A
05/07/2002	D3	SR	CERTIFIED MAIL RECEIPT NO. 2574534 RETURNED BY U.S. MAIL DEPARTMENT 05/06/2002 THE CINCINNATI INSURANCE COMPANY MAIL RECEIVED AT ADDRESS SIGNED BY OTHER.	N/A
04/30/2002	D1	MO	PAUL P CHALKO 0016598D 1 COLONIAL INSURANCE COMPANYMOTION FOR SUSPENSION OF CASE MANAGMENT ORDER 11/22/2002 - UNKNOWN	N/A
04/29/2002	D3	SR	NOTICE GENERATED FOR SUMS 3RD PTY COMPLNT ON THE CINCINNATI INSURANCE COMPANY ON 04/29/2002	N/A
04/24/2002	N/A	JE	PLAINTIFF MARY NUNNEKER'S MOTION FILED 3/29/02 FOR AN ORDER EXTENDING BY 30 DAYS THE DEADLINE FOR CLASS MEMBERS TO EXCLUDE THEMSELVES OR TO FILE AND APPEARANCE IN THIS CLASS ACTION IS GRANTED. BOOK 2736 PAGE 0693 04/24/2002 NOTICE ISSUED	N/A
04/17/2002	D1	OT	COLONIAL, NANCY J.HOLZ,MARK J.FORRESTER,RALPH D.KOVANDA & CATHLEEN DELANEY THIRD PARTY COMPLAINT FOR DECLARATORY	N/A

			PGS.0585-591 NOTICE ISSUED. CASE ASSIGNED CASE MANAGEMENT 11/05/01 SC-08:30	
03/27/2001	P	JE	MOTION FOR ENLARGEMENT OF TIME IN WHICH TO FILE MEMORANDUM OPPOSING CLASS CERTIFICATION FILED 2-27-01 IS DEEMED AS MOOT FOR THIRD PARTY DEFT., TOWERS PERRIN FORSTER & CROSBY... VOL 2576 PG 0509.....NOTICE ISSUED	N/A
03/27/2001	D	JE	MOTION FOR ENLARGEMENT OF TIME WHICH TO FILE MEMORANDUM OPPOSING CLASS CERTIFICATION, FILED 3-2-01, IS DEEMED AS MOOT FOR DEFT/THIRD PARTY PLTF COLONIAL INSURANCE CO..... VOL 2576 PG 0508.....NOTICE ISSUED	N/A
03/12/2001	D	BR	TILLINGHAS-TOWERS PERRIN'S REPLY BRIEF IN SUPPORT OF MTN. TO STRIKE OR DISMISS THIRD PARTY COMPLAINT...MARTHA S. SULLIVAN	N/A
03/06/2001	P	JE	CMC HELD. MOTION TO DISMISS IS PENDING DECISION. TILLINGHAST AND COLONIAL MAY HAVE 60-60 DAYS FROM THE DATE THE COURT RULES ON MOTION TO DISMISS IN ORDER TO COMPLETE DISCOVERY ON AND FILE BRIEF IN OPP. TO MOTION TO CERTIFY CLASS. TILLINGHAST MAY FILE REPLY BRIEF TO COLONIAL'S BRIEF IN OPP. BY 3-12-01. PLTF MAY REPLY TO ANY BRIEF IN OPP. ON MOTION TO CERTIFY 14 DAYS AFTER SUCH BRIEF IN OPP. CMC SET FOR 6-20-01 AT 8:30 A.M.....VOL 2568 PG 0643.....NOTICE ISSUED CASE ASSIGNED CASE MANAGEMENT 06/20/01 SC-08:30	N/A
03/02/2001	D	MO	MOTION FOR ENLARGEMENT OF TIME IN WHICH TO FILE MEMORANDUM OPPOSING CLASS CERTIFICATION .....PAUL P. CHALKO..... 03/26/01-MOOT	N/A
03/02/2001	D	BR	REPLY BRIEF OF DEFT/THIRD PARTY PLTF COLONIAL INSURANCE CO... TO TILLINGHAST - TOWERS PERRIN'S MOTION TO STRIKE OR DISMISS THIRD PARTY COM- PLAIN T.....PAUL P. CHALKO...	N/A
03/02/2001	P	MO	PLTF'S MOTION FOR CLASS CERTIFICATION. GENE MESH..... 03/01/01- MOOT	N/A
03/01/2001	P	OT	EXHIBITS TO PLTF'S MOTION FOR CLASS CERTIFI- CATION AND MEMORANDUM OF LAW IN SUPPORT THEREOF .....GENE MESH.....	N/A
03/01/2001	P	MO	PLTF'S MOTION FOR CLAS CERTIFICATION AND MEMORANDUM OF LAW IN SUPPORT THEREOF.... GENE MESH..... 12/03/01-GRANTED	N/A
02/27/2001	D	MO	MOTION FOR ENLARGEMENT OF TIME WHICH TO FILE MEMORANDUM OPPOSING CLASS CERTIFICATION. MARTHA SULLIVAN..... 03/26/01- MOOT	N/A
02/22/2001	D	MO	TILLIGHAST TOWERS PERRIN'S MOTION TO STRIKE OR DISMISS 3RD PARTY COMPLAINT. MARTHA SULLIVAN..... 09/11/01-GRANTED	N/A
02/20/2001	D	MO	MOTION FOR CLARIFICATION OF CASE MANAGEMENT SCHEDULE...ROGER M. GOLD/ 08/30/01-MOOT	N/A
02/05/2001	D	AN	DEFT COLONIAL INSUR.CO.'S AMENDED ANSWER AND AMENDED 3RD PARTY COMPLAINT AGAINST TOWERS PERRIN, FORSTER AND CROSBY IC. DBA TILLINGHAST TOWERS PERRIN. PAUL CHALKO.....	N/A
01/23/2001	P	JE	DEFT-THIRD PARTY PLTF COLONIAL INS. CO. REQUEST FOR LEAVE TO PLEAD, FILED 1-9-01, IS GR TD. PARTIES MAY HAVE UNTIL 3-1-01 TO COMPLETE DISCOVERY FOR CLASS CERTIFICATION AND FILE APPROPRIATE BRIEFS AND MOTIONS-CMC SET FOR 3-5-01/8:30AM. VOL 2550 PG 810 NOTICE ISSUED ..... CASE ASSIGNED CASE MANAGEMENT 03/05/01 SC-08:30	N/A

JUDGMENT AND OTHER RELIEF. PAUL P CHALKO (0016598)				
04/10/2002	N/A	JE	DEFENDANTS COLONIAL INSURANCE CO., NANCY HOLZ, MARK FORRESTER, RALPH KOVANDA, AND CATHLEEN DELANEY'S MOTION FILED MARCH 13, 2002 FOR LEAVE TO FILE THIRD PARTY COMPLAINT INSTANTER IS GRANTED. BOOK 2729 PAGE 0384 04/10/2002 NOTICE ISSUED	N/A
03/29/2002	P1	MO	JOSEPH N KRAVEC 9002538P 1 MARY E NUNNEKERPLTF'S MOTION FOR AN ORDER EXTENDING BY 30 DAYS THE DEADLINE FOR CLASS MEMBERS TO EXCLUDE THEMSELVES OR TO FILE AN APPEARANCE IN THIS CLASS ACTION..... 04/24/2002 - GRANTED	N/A
03/13/2002	D1	MO	PAUL P CHALKO 0016598D 1 COLONIAL INSURANCE COMPANYMOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT INSTANTER 04/10/2002 - GRANTED	N/A
02/01/2002	P	JE	AMENDED MOTION FOR ENTRY OF CASE MGMT ORDER... SEE JOURNAL. P.T. SET 8-12-02 AT 4 P.M. ALL CLIENTS MUST BE PRESENT. TRIAL SET 9-11-02 AT 9 A.M....OSJ VOL 2698 PGS 0987- 0990.....NOTICE ISSUED CASE SET FOR PRE-TRIAL 08/12/02 SC-04:00 CASE SET FOR JUDGE TRIAL 09/11/02 SC-09:00	N/A
01/14/2002	P	MO	AMENDED MOTION FOR ENTRY OF CASE MANAGEMENT ORDER.....JOSEPH N, KRAVEC, JR 02/01/2002 - GRANTED	N/A
01/14/2002	P	OT	PLTF'S MODIFIED PROPOSED CLASS NOTICE AND PLAN OF NOTICE.....DAVID J. MANOGUE	N/A
01/04/2002	P	MO	PLTF'S. MOTION FOR ENTRY OF CASE MANAGEMENT ORDER.....DAVID J. MANOGUE. 03/21/2002 - MOOT	N/A
01/04/2002	P	OT	PLTF'S PROPOSED CLASS NOTICE AND PLAN OF NOTICE.....JOSEPH N. KRAVEC, JR...	N/A
12/05/2001	P	JE	PLTF'S MOTION FOR CLASS CERTIFICATION, SEE JOURNAL. PLTF'S MOTION FOR CLASS CERTIFICATION FILED 3-2-01 IS GRANTED.CASE SET FOR CMC ON 1-7-02 AT 10:30 A.M....PLTF MARY E. NUNNEKER ALLEGES THAT DEFT COLONIAL INSURANCE COMPANY INTENTIONALLY AND/OR NEGLIGENTLY MISMANAGED CERTAIN CONVALESCENT CARE INSURANCE POLICIES WITH THE RESULT THAT POLICYHOLDERS WERE OVER- CHARGED FOR PREMIUMS OVER A PERIOD OF 15 YEARS .....SEE ENTRY FOR DETAILS.....OSJ VOL 2676 PGS 0290-0300.....NOTICE ISSUED CASE ASSIGNED CASE MANAGEMENT 01/07/02 SC-10:30	N/A
11/09/2001	D	BR	BRIEF OF DEFT COLONIAL INSURANCE CO. IN OPPOSITION TO PLTF'S MOTION FOR CLASS CERTIFI- CATION.....PAUL P. CHALKO	N/A
11/06/2001	P	JE	CMC HELD. COURT TO RULE ON MOTION FOR CLASS CERTIFICATION...VOL.2665 PG.0692 NOTICE ISSUED	N/A
10/05/2001	D	JE	DEFT/THIRD PARTY PLTF, COLONIAL INSURANCE CO. MTN REQUESTING AMENDMENT TO COURT'S RULING SEPT. 5, 2001 IS DENIED. VOL 2652 PG 527. NOTICE ISSUED.	N/A
10/01/2001	D	MO	MOTION REQUESTING AMENDMENT TO COURT'S RULING OF 9-5-01.....PAUL P.CHALKO,486-1777....(W).. 10/02/01-DENIED	N/A
09/13/2001	D	JE	RULING ON MOTION TO STRIKE OR DISMISS THIRD PARTY COMPLAINT,SEE JOURNAL.THIRD PARTY DEFT MOTION TO STRIKE OR DISMISS THE THIRD PARTY COMPLAINT FILED 2/22/01 IS GRANTED.THE THIRD- PARTY COMPLAINT OF DEFTS/THIRD PARTY PLTF COLONIAL INS.SHALL BE STRICKEN.CMC SET 11/05/01 AT 8:30 A.M..... VOL.2642	N/A

10/10/2003

01/16/2001	P	OT	RESPONSE OF PLTF IN OPPOSITION TO DFDT, COLONIAL INS.CO.'S REQUEST FOR LEAVE TO PLEAD. JOSEPH N. KRAVEC,JR./.	N/A
01/16/2001	D	RE	RESPONSE OF 3RD PARTY DEFT TO DEFTS REQUEST FOR LEAVE TO PLEAD. MARTHA SULLIVAN.....	N/A
01/08/2001	D	JE	THIRD-PARTY DEFENDANT'S MOTION FOR LEAVE TO FILE REPLY BRIEF, INSTANTER, FILED 12/4/00, IS GRANTED. VOL 2545 PG 0019 NOTICE ISSUED	N/A
12/18/2000	P	JE	PLTF'S MOTION FOR ADMISSION OF JOSEPH M.KRAVEC PRO HAC VICE FILED 11/15/00 GRANTED.PLTF'S MOTION FOR ADMISSION OF DAVID T.MANOUE PRO HAC VICE FILED 11/15/00 IS GRANTED..... VOL.2538 PG.0122 NOTICE ISSUED.	N/A
12/18/2000	P	JE	MOTION FOR MORE DEFINITE STATEMENT FILED 11/13/00 BY THIRD PARTY DEFT TOWERS PERRIN FOSTER & CRANTZ?,INC.IS GRANTED.MOTION OF PLTF FOR ADMISSION OF MICHAEL G.BRAUTIGAM PRO HAC VICE FILED 11/06/00 IS GRANTED. PLTF MOTION TO ADMIT RALPH B.LEVEY & BRIAN WALSH PRO HAC VICE FILED 11/13/00 IS GRANTED..... VOL.2538 PG.0122 NOTICE ISSUED.	N/A
12/04/2000	D	MO	MOTION OF 3RD-PARTY DFDT FOR LEAVE TO FILE REPLY BRIEF, INSTANTER...MARTHA S. SULLIVAN/ 01/04/01-GRANTED	N/A
11/24/2000	D	BR	DEFT/THIRD PARTY PLTF COLONIAL INSURANCE CO'S BRIEF IN OPPOSITION TO MOTION FOR MORE DEFINITE STATEMENT OF THIRD PARTY DEFT TOWERS, PERRIN, FORSTER AND CROSBY, INC. PAUL P.CHALKO	N/A
11/15/2000	P	MO	MOTION OF PLTF MARY NUNNEKER FOR ADMISSION OF DAVID MANOUE PRO HAC VICE. GENE MESH..... 12/18/00-GRANTED	N/A
11/15/2000	P	MO	MOTION OF PLTF MARY NUNNEKER FOR ADMISSION OF JOSEPH KRAVEC JR. PRO HAC VICE. GENE MESH..... 12/07/00-GRANTED	N/A
11/13/2000	D	MO	MOTION FOR MORE DEFINITE STATEMENT..... MARTHA S. SULLIVAN..... 12/07/00-GRANTED	N/A
11/13/2000	D	MO	MOTION TO ADMIT RALPH B. LEVEY AND BRIAN C. WALSH PRO HAC VICE.....MARTHA S. SULLIVAN... 12/07/00-GRANTED	N/A
11/07/2000	P	JE	CMC HELD. P.T. SET FOR 5/23/01 AT 4:00 P.M. ALL CLIENTS MUST BE PRESENT. VOL 2524 PG 0659 NOTICE ISSUED . CASE SET FOR PRE-TRIAL 05/23/01 SC-04:00	N/A
11/06/2000	P	MO	MOTION OF PLTF MARY NUNNEKER FOR ADMISSION OF RICHARD BRUALDI PRO HAC VICE. GENE MESH..... 03/21/2002 - UNKNOWN	N/A
11/06/2000	P	MO	MOTION OF PLTF MARY NUNNEKER FOR ADMISSION OF MICHAEL BRAUTIGAM PRO HAC VICE. GENE MESH..... 12/09/00-GRANTED	N/A
10/25/2000	D	MO	UNOPPOSED MOTION FOR LEAVE TO PLEAD THAT DEFT TILLING HAST - TOWERS PERRIN, HAVE UNTIL 11/10/00.....HOWARD J.C. NICOLS..... 05/29/01-MOOT	N/A
09/28/2000	P	SR	CERTIFIED MAIL RECEIPT NO. 419-80099 RETURNED BY U.S. POSTAL DEPARTMENT 10/03/2000 TILLING HAST TOWERS PERRIN . MAIL RECEIVED AT ADDRESS 09/28/2000 SIGNED BY OTHER POSTAGE AMOUNT \$4.50	N/A
09/22/2000	P	SR	REQUEST FOR SERVICE ON CROSS COMPLAINT AND SUMMONS SENT BY CERTIFIED MAIL TO TILLING HAST TOWERS PERRIN ISSUED 09/25/2000..PAUL P CHALKO	N/A

08/18/2000	D	RE	REQUEST OF DFDT FOR LEAVE TO PLEAD BY 092200..	N/A
07/24/2000	P	SR	CERTIFIED MAIL RECEIPT NO. 013-87553 RETURNED BY U.S. POSTAL DEPARTMENT 07/26/2000 COLONIAL INSURANCE COMPANY . MAIL RECEIVED AT ADDRESS 07/24/2000 SIGNED BY OTHER POSTAGE AMOUNT \$4.50	N/A
07/12/2000	P	CO	COMPLAINT WITH JURY DEMAND FILED AND SUMMONS SENT BY CERTIFIED MAIL TO THE DEFENDANT(S).	N/A
07/12/2000	P	DP	\$\$ 324134 GENE MESH & ASSOC 100.00 DR 37.00 . CF 25.00 . LA 15.00 . LN 10.00 . LR 3.00 . CM 10.00 .	N/A

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05/13/2003	D1	OT	NOTICE OF APPEARANCE OF SPECIAL COUNSEL, AS APPOINTED BY OHIO ATNY.GEN. JIM PETRO FOR DEFTS COLONIAL INSUR.CO. NANCY HOLZ AND MARK FORRESTER, RALPH KOVANDA AND CATHLEEN DELANEY.. MARK S BENNETT (0069823)	N/A
03/04/2003	N/A	JE	CASE STAYED PER AGREED ORDER APPOINTING REHABILITATOR ISSUED BY THE FRANKLIN COUNTY COURT OF COMMON PLEAS IN 03CV01 00597 ON 01/16/2003. BOOK 2890 PAGE 0474 03/04/2003 NOTICE ISSUED	N/A
02/05/2003	N/A	JE	MOTION FOR CONTINUANCE GRANTED. TRIAL SET 2-18-03 CANCELLED. CMC SET 6-2-03 AT 8:30 AM BOOK 2876 PAGE 0207 02/05/2003 NOTICE ISSUED	N/A
02/01/2003	N/A	SC	TRIAL SCHEDULED FOR 02/18/2003 AT 09:00 AM IS CANCELLED. JUDGE: BURT W GRIFFIN (030) REASON: MOTION FOR CONTINUANCE GRANTED. CMC SET 6-2-03 AT 8:30AM (NOTICE SENT).	N/A
02/01/2003	N/A	SC	CASE MGMNT CONFERENCE SET FOR 06/02/2003 AT 08:30 AM. (NOTICE SENT).	N/A
01/27/2003	P	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESSES WILLIAM MUSULIN D JOEFF WILLIAMS JACK HARDING AND MIKE MOTTLE OR , ALTERNATIVE, FOR LEAVE TO CONDUCT DISCOVERY. JOSEPH N KRAVEC (9002538) 07/30/2003 - UNKNOWN	N/A
01/27/2003	P	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESS WILLIAM MUSULIN D JOEFF WILLIAMS JACK HARDING AND MIKE MOTTL OR ALTERNATIVELY FOR LEAVE TO CONDUCT DISCOVERY. JOSEPH N KRAVEC (9002538)	N/A
01/24/2003	P1	MO	PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESSES WILLIAM B.MUSULIN,D.JOEFF WILLIAMS,JACK HARDING AND MIKE MOTTL,OR,ALTERNATIVELY,FOR LEAVE TO CONDUCT DISCOVERY. JOSEPH N KRAVEC (9002538) 07/30/2003 - UNKNOWN	N/A
01/24/2003	P1	ML	MEMORANDUM OF LAW IN SUPPORT OF PLTFS MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFTS PROPOSED WITNESSES WILLIAM B.MUSULIN,D.JOEFF WILLIAMS,JACK HARDING AND MIKE MOTTL OR,ALTERNATIVELY,FOR LEAVE TO CONDUCT DISCOVERY.9002538. JOSEPH N KRAVEC (9002538)	N/A
01/24/2003	P1	CM	COMMUNICATION RE: CERT COPY OF FRANKLIN COUNTY CASE 03-CV001-00697 BY PAUL P.CHALKO...(W)...	N/A
01/21/2003	D3	MO	MOTION FOR SUMMARY JUDGMENT OF 3RD PARTY DEFT THE CINCINNATI INSUR.CO. DARIUS N KANDAWALLA (0066487) 07/30/2003 - UNKNOWN	N/A
01/17/2003	N/A	JE	THIRD-PARTY DEFT THE CINCINNATI INSURANCE COMPANY'S MTN FOR EXTENSION OF TIME TO FILE ITS MTN FOR SUMMARY JUDGMENT, FILED 12/16/2002, IS GRANTED. BOOK 2867 PAGE 0194 01/17/2003 NOTICE ISSUED	N/A
12/16/2002	D5	MO	D5 THE CINCINNATI INSURANCE COMPANY THIRD-PARTY DEFT THE CINCINNATI INSURANCE COMPANY'S MTN FOR EXTENSION OF TIME TO FILE ITS MTN FOR SUMMARY JUDGMENT DARIUS N KANDAWALLA 0066487 01/17/2003 - GRANTED	N/A
12/16/2002	D5	AN	... ANSWER OF THIRD-PARTY DEFT THE CINCINNATI INSURANCE	N/A

## Case Docket Listing

Case Number:		CV-01-454848		
Case Title:		MARY E NUNNEKER INDIVIDUALLY & ON BEHALF OF ALL OT vs. NANCY J HOLZ ET AL		
Date	Side	Type	Description	Image
09/10/2003	N/A	JE	PRETRIAL CONFERENCE HELD ON 9-8-03. DEFENDANT COLONIAL IS IN REHABILITATION. COURT SHALL APPOINT SPECIAL MASTER TO MEDIATE DISPUTE AMONG THE PARTIES, TO ATTEMPT TO PRODUCE A SETTLEMENT, AND, IF A SETTLEMENT IS REACHED, TO SUBMIT A MEMORANDUM TO THE COURT SETTING FORTH WHY THE SETTLEMENT IS FAIR AND REASONABLE. COSTS OF MEDIATION TO BE SHARED EQUALLY BY THE PARTIES SUBJECT TO THE CONSENT OF THE REHABILITATOR FOR COLONIAL. MEDIATION TO BE CONDUCTED BY 12-15-03. PARTIES SHALL SUBMIT RECOMMENDATION BY 9-15-03. BOOK 2988 PAGE 0384 09/10/2003 NOTICE ISSUED	N/A
09/09/2003	N/A	JE	DEFENDANT'S MOTION TO CONTINUE PRETRIAL CONFERENCE, FILED 08/03/2003, IS DENIED. BOOK 2987 PAGE 0404 09/09/2003 NOTICE ISSUED	N/A
09/09/2003	N/A	JE	DEFENDANT'S MOTION TO EXCUSE PRESENCE AT PRETRIAL CONFERENCE, FILED 08/28/2003, IS GRANTED. BOOK 2987 PAGE 0402 09/09/2003 NOTICE ISSUED	N/A
09/02/2003	D1	MO	MOTION TO WITHDRAW AS SPECIAL COUNSEL FOR DEFENDANTS FILED.... MARK S BENNETT (0069823)	N/A
08/28/2003	D3	MO	3RD PARTY DEFT THE CINCINNATI INSURANCE CO'S MOTION TO EXCUSE PRESENCE AT PRETRIAL CONFERENCE. DARIUS N KANDAWALLA (0066487) 09/09/2003 - GRANTED	N/A
08/28/2003	D1	OT	NOTICE OF APPEARANCE OF SPECIAL COUNSEL. VALORIA HOOVER (0059596)	N/A
08/03/2003	D1	MO	MOTION TO CONTINUE PRETRIAL CONFERENCE. VALORIA HOOVER (0059596) 09/09/2003 - DENIED	N/A
07/16/2003	D	BR	DEFENDANT(S) NANCY J HOLZ(D1), MARK J FORRESTER(D2), RALPH D KOVANDA(D3) and CATHLEEN DELANEY(D4) DEFTS/THIRD PARTY PLTFS' BRIEF IN OPPOSITION TO THIRD PARTY DEFT'S MOTION FOR SUMMARY JUDGMENT AND DEFTS' CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT..... MARK S BENNETT 0069823	N/A
06/23/2003	N/A	JE	PRE-TRIAL PREVIOUSLY SCHEDULED FOR 08/05/2003 AT 01:30 PM IS RESCHEDULED FOR 09/08/2003 AT 02:00 PM. BECAUSE THE JUDGE IS ON VACATION, PT SET 8-5-03 IS RESET TO 9-8-03 AT 2:00PM. ALL CLIENTS MUST BE PRESENT.. BOOK 2948 PAGE 0309 06/23/2003 NOTICE ISSUED	N/A
06/19/2003	N/A	SC	PRE-TRIAL SCHEDULED FOR 08/05/2003 AT 01:30 PM IS CANCELLED. JUDGE: BURT W GRIFFIN (030) REASON: BECAUSE THE JUDGE IS ON VACATION, PT SET 8-5-03 IS RESET TO 9-8-03 AT 2:00PM. ALL CLIENTS MUST BE PRESENT (notice sent).	N/A
06/05/2003	N/A	JE	CASE MGMNT CONFERENCE HELD ON 06/02/2003. PARTIES ANTICIPATE EXTENSION OF STAY THROUGH JULY. PRETRIAL SET FOR 08/05/2003 AT 01:30 PM. ALL CLIENTS MUST BE PRESENT. BOOK 2940 PAGE 0536 06/05/2003 NOTICE ISSUED	N/A

08/12/2002	N/A	SC	PRE TRIAL CONFERENCE SET FOR 12/15/2002 AT 04:00 PM.	N/A
07/24/2002	N/A	JE	CMC HELD ON 07/19/2002. CASE RECLASSIFIED AS COMPLEX LITIGATION. TRIAL OF 9/11/02 IS CANCELLED. PRETRIAL SET FOR 12/5/02 AT 4:00 P.M. TRIAL RESCHEDULED TO 2/18/03 AT 9:00 A.M. BOOK 2782 PAGE 0180 07/24/2002 NOTICE ISSUED	N/A
07/22/2002	N/A	SC	TRIAL SCHEDULED FOR 09/11/2002 AT 09:00 AM IS CANCELLED. (NOTICE SENT)	N/A
07/15/2002	D	BR	REPLY BRIEF IN SUPPORT OF THE CINCINNATI INSURANCE COMPANY'S MOTION TO STRIKE OR, IN THE ALTERNATIVE DISMISS THE THIRD PARTY COMPLAINT FILED BY DEFTS/THIRD PARTY PLTFs..... DARIUS N KANDAWALLA (0066487)	N/A
07/15/2002	D5	MO	DARIUS N KANDAWALLA 0066487D 5 THE CINCINNATI INSURANCE COMPANY'S MOTION FOR LEAVE TO FILE REPLY BRIEF IN FURTHER SUPPORT OF THE CINCINNATI INSURANCE COMPANY'S MOTION TO STRIKE OR, IN THE ALTERNATIVE, DISMISS THE THIRD PARTY COMPLAINT..... 11/26/2002 - GRANTED	N/A
06/25/2002	N/A	JE	PURSUANT TO LOCAL RULE 21, PART I, THE COURT WILL CONDUCT A CASE MANAGEMENT CONFERENCE ON 07/19/2002 AT 08:30 AM. DISCOVERY SCHEDULE, AMOUNT IN CONTROVERSY, EXCHANGE OF EXPERT REPORTS, DATE FOR FINAL PRETRIAL CONFERENCE, REFERRAL TO ARBITRATION, ETC., SHALL BE RESOLVED AND INCLUDED IN A BINDING DECREE AND ORDER FORMALIZED. ALL COUNSEL ATTENDING SHALL HAVE FULL AUTHORITY TO ENTER INTO A BINDING CASE MANAGEMENT ORDER. BOOK 2768 PAGE 0200 06/25/2002 NOTICE ISSUED	N/A
06/10/2002	D1	MO	DEFTS. MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN OPPOSITION TO THIRD-PARTY DEFTS MOTION TO STRIKE OR DISMISS THIRD-PARTY COMPLAINT. PAUL P CHALKO (0016598) 11/26/2002 - GRANTED	N/A
05/28/2002	D5	MO	DARIUS N KANDAWALLA 0066487D 5 THE CINCINNATI INSURANCE COMPANY'S MOTION TO STRIKE OR IN THE ALTERNATIVE, DISMISS THE 3RD PARTY COMPLAINT FILED BY DEFTS/3RD PARTY PLTFs AGAINST THE CINCINNATI INSUR.CO 12/06/2002 - DENIED	N/A
04/30/2002	D1	MO	PAUL P CHALKO 0016598D 1 NANCY J HOLZMOTION FOR SUSPENSION OF CASE MANAGEMENT ORDER	N/A
04/24/2002	N/A	JE	PLAINTIFF MARY NUNNEKER'S MOTION FILED 3/29/02 FOR AN ORDER EXTENDING BY 30 DAYS THE DEADLINE FOR CLASS MEMBERS TO EXCLUDE THEMSELVES OR TO FILE AN APPEARANCE IN THIS CLASS ACTION IS GRANTED. BOOK 2736 PAGE 0692 04/24/2002 NOTICE ISSUED	N/A
04/17/2002	D1	OT	COLONIAL, NANCY HOLZ, MARK FORRESTER, RALPH KOVANDA AND CATHLEEN DELANEY THIRD PARTY COMPLAINT FOR DECLARATORY JUDGMENT AND OTHER RELIEF. PAUL P CHALKO (0016598)	N/A
04/10/2002	N/A	JE	DEFENDANTS COLONIAL INSURANCE CO., NANCY HOLZ, MARK FORRESTER, RALPH KOVANDA, AND CATHLEEN DELANEY'S MOTION FILED MARCH 13, 2002 FOR LEAVE TO FILE THIRD PARTY COMPLAINT INSTANTER IS GRANTED. BOOK 2729 PAGE 0385 04/10/2002 NOTICE ISSUED	N/A
03/29/2002	P1	MO	GENE MESH 0002076P 1 MARY E NUNNEKERPLTF'S MOTION FOR AN ORDER EXTENDING BY 30 DAYS THE DEADLINE FOR CLASS MEMBERS TO EXCLUDE THEMSELVES OR TO FILE AN APPEARANCE IN THIS CLASS ACTION..... 04/24/2002 - GRANTED	N/A

03/13/2002	D1	MO	PAUL P CHALKO 0016598D 1 NANCY J HOLZMOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT INSTANTER 04/10/2002 - GRANTED	N/A
03/13/2002	N/A	JE	ORDER RE. PLAINTIFFS' PROPOSAL AS TO FORM AND PLAN OF NOTICE TO CERTIFIED CLASS. O.S.J. BOOK 2715 PAGE 0697-0699 03/13/2002 NOTICE ISSUED	N/A
03/13/2002	N/A	JE	ORDER GRANTING CLASS CERTIFICATION. O.S.J. BOOK 2715 PAGE 0694-0695 03/13/2002 NOTICE ISSUED	N/A
02/01/2002	P	JE	AMENDED MOTION FOR ENTRY OF CASE MGMT ORDER... SEE JOURNAL. P.T. SET 8-12-02 AT 4 P.M. ALL CLIENTS MUST BE PRESENT. TRIAL SET 9-11-02 AT 9 A.M....OSJ VOL 2698 PGS 0987-0990.....NOTICE ISSUED CASE SET FOR PRE-TRIAL 08/12/02 SC-04:00 CASE SET FOR JUDGE TRIAL 09/11/02 SC-09:00	N/A
01/14/2002	P	MO	AMENDED MOTION FOR ENTRY OF CASE MANAGEMENT ORDER.....GENE MESH..... 02/01/2002 - GRANTED	N/A
01/14/2002	P	OT	PLTF'S MODIFIED PROPOSED CLASS NOTICE AND PLAN OF NOTICE.....GENE MESH.....	N/A
01/10/2002	D	AN	JOINT ANSWER OF DEFTS NANCY HOLZ,MARK FORRESTER,RALPH KOVANDA AND CATHLEEN DELANEY. PAUL CHALKO.....	N/A
01/08/2002	D	JE	UPON ADVICE OF COUNSEL AND WITH CONCURRENCE OF JDG GRIFFIN, CASE IS HEREBY TRANSFERRED TO THE DOCKET OF JUDGE BURT W. GRIFFIN FOR CONSOLIDATION WITH CASE 412736. VOL 2688 PG 255. NOTICE ISSUED.	N/A
12/14/2001	P	SR	CERTIFIED MAIL RECEIPT NO. 015-31135 RETURNED 12/14/2001 FAILURE OF SERVICE ON DEFENDANT FORRESTER,MARK J. REFUSED . NOTICE MAILED TO PLTF'S ATTORNEY. POSTAGE AMOUNT \$4.50 POSTCARD NOTICE \$.21	N/A
12/13/2001	P	SR	CERTIFIED MAIL RECEIPT NO. 015-31134 RETURNED BY U.S. POSTAL DEPARTMENT 12/17/2001 HOLZ,NANCY J. - ET AL . MAIL RECEIVED AT ADDRESS 12/13/2001 SIGNED BY OTHER POSTAGE AMOUNT \$4.50	N/A
12/13/2001	P	SR	CERTIFIED MAIL RECEIPT NO. 015-31136 RETURNED BY U.S. POSTAL DEPARTMENT 12/17/2001 KOVANDA,RALPH D. . MAIL RECEIVED AT ADDRESS 12/13/2001 SIGNED BY OTHER POSTAGE AMOUNT \$4.50	N/A
12/13/2001	P	SR	CERTIFIED MAIL RECEIPT NO. 015-31137 RETURNED BY U.S. POSTAL DEPARTMENT 12/17/2001 DELANEY,CATHLEEN . MAIL RECEIVED AT ADDRESS 12/13/2001 SIGNED BY OTHER POSTAGE AMOUNT \$4.50	N/A
11/29/2001	P	CO	COMPLAINT WITH JURY DEMAND FILED AND SUMMONS SENT BY CERTIFIED MAIL TO THE DEFENDANT(S).	N/A
11/29/2001	P	DP	411892 MICHAEL G.BRAUTIGAM \$\$ 100.00 DR 37.00 . CF 25.00 . LA 15.00 . LN 10.00 . LR 3.00 . CM 10.00 .	N/A

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