NO. D-1-GV-08-000945

THE STATE OF TEXAS	§	**IN THE DISTRICT COURT OF**
	§	
v.	§	
	§	
MEMORIAL SERVICE LIFE INSURANCE COMPANY, LINCOLN MEMORIAL LIFE INSURANCE COMPANY, AND NATIONAL PREARRANGED SERVICES, INC.	§	**TRAVIS COUNTY, TEXAS**
	§	
	§	
	§	
	§	**250TH JUDICIAL DISTRICT**

NORTHSTAR'S RESPONSE TO THE SDR AND NOLHGA'S SPECIAL EXCEPTIONS AND MOTION TO STRIKE AND DISMISS, IN WHOLE OR IN PART, THE MOTION TO LIFT STAY BY NORTHSTAR REINSURANCE IRELAND LIMITED AND ITS REPLY BRIEF IN SUPPORT OF MOTION TO LIFT STAY

In response to the SDR's and NOLHGA's special exceptions and motion to strike and dismiss, in whole or in part, Northstar's motion to lift stay and reply brief in support thereof, Northstar states as follows:

I. INTRODUCTION

1. The "special exceptions" filed by the SDR and NOLHGA are both procedurally improper and substantively meritless. Accordingly, this Court should either strike or dismiss the special exceptions in their entirety.

2. As a procedural matter, the barest of scrutiny makes plain that the "special exceptions" filed by the SDR and NOLHGA improperly attack Northstar's pleading on the basis of alleged extrinsic facts requiring proof. In other words, the SDR and NOLHGA have improperly attempted to file a motion for summary judgment in the guise of "special exceptions." The Court should not permit the SDR and NOLGHA to distort TRCP 91 in this fashion, and should strike the "special exceptions" in their entirety.

3. On a substantive basis, none of the purported special exceptions filed by the SDR and NOLGHA has any merit, for the reasons discussed at length in Northstar's prior submissions regarding its motion to stay and summarized again herein.[1]

4. Accordingly, the Court should either strike the "special exceptions" in their entirety as a procedural matter or, alternatively, should dismiss the "special exceptions" on the ground that they lack any merit.

II. ARGUMENT

A. SDR and NOLHGA Have Improperly Raised Disputed Factual Issues Under the Guise Of "Special Exceptions."

5. Pursuant to TRCP 91

> A special exception shall not only point out the particular pleading excepted to, but it shall also point out intelligibly and with particularity, the defect, omission, obscurity, duplicity, generality, or other insufficiency in the allegations in the pleading excepted to.

Thus, special exceptions provide a means of questioning the legal sufficiency of a plaintiff's petition. *Ross v. Goldstein*, 203 S.W.2d 508, 512 (Tex. Ct. App.-Houston 2006). Special exceptions are also appropriate to challenge a pleading for failing to allege a cause of action in Texas. *Id.*

6. A special exception becomes an impermissible "speaking demurrer," however, when, rather than limiting itself to the allegations of the petition, it relies upon facts extrinsic thereto in order to challenge the plaintiff's right to recover. *Sepulveda v. Krishnan*, 839 S.W.2d 132, 134 (Tex. App. Ct. – Corpus Christi 1992). If the defendant relies upon extrinsic facts to attack the pleading, then the defendant must do so through a summary judgment proceeding –

[1] Northstar's prior submissions include its motion to lift stay, its reply in support of its motion to lift stay, and its response to NOLHGA's objections to Northstar's motion to lift stay. In order to relieve the Court of the necessity of reviewing largely duplicative pleadings, the arguments set forth in those submissions are hereby incorporated by reference as though fully set forth herein. Northstar will, nonetheless, provide a brief summary of its substantive responses to the specific "special exceptions" asserted by the SDR and NOLGHA.

not through the use of special exceptions. *Travelers Indem. Corp. v. Holt Machinery*, 554 S.W.2d 12, 15 (Tex. Ct. App. – El Paso 1977.)

7. Even the most cursory of readings confirms that the "special exceptions" filed by SDR and NOLHGA rely on extrinsic evidence and, therefore, are improper. Indeed, the supposed factual predicate underlying the entirety of the "special exceptions" is that the reinsurance agreement at issue (the "Agreement") and the associated collateral constitute "property of the estate" for purposes of the Receivership Act. Specifically, the SDR and NOLHGA state that they "specially except to Northstar's motion to lift the stay barring its further prosecution of an effort to strip the receivership estate of over $38,000,000 in assets securing over $40 million in Northstar's liability." (Special Exceptions, ¶ 1.2.) The very issue that Northstar seeks to resolve by lifting the stay is the issue *whether* the Agreement and associated collateral constitute "property of the estate." In light of the positions taken by both the SDR and NOLHGA, it is clear that *whether* the assets at issue constitute "property of the estate" represents a disputed issue of fact, dependent upon whether Northstar properly terminated the Agreement in accordance with its terms prior to Lincoln's insolvency. As the longstanding Texas caselaw cited above makes clear, this disputed issue of fact cannot be resolved through the mechanism of a "special exception."

8. Accordingly, the SDR's and NOLHGA's "special exceptions" should be stricken in their entirety on the ground that the SDR and NOLHGA have improperly invoked TRCP 91 in an effort to obtain summary judgment.

B. None of the "Special Exceptions" Articulated by the SDR and NOLHGA Have Any Merit.

9. As noted above, Northstar has addressed many of the arguments raised by the SDR and NOLHGA in their "special exceptions" in its prior submissions to this Court, as well as

in its Response to NOLHGA's Objections, filed contemporaneously herewith. Nonetheless, Northstar will briefly address each of the special exceptions herein, and refers to the Court to its other pleadings for a more fulsome discussion thereof.

1. Northstar Has the Right to Arbitrate the Issue Whether Northstar Properly Terminated the Agreement for Nonpayment of Amounts Due from Lincoln.

10. The SDR and NOLGHA first challenge Northstar's right to arbitrate the issue whether the Agreement was properly terminated "notwithstanding the automatic stay and the provisions of the Liquidation Order." (Special Exceptions, ¶ 2.1.A.) Again, this argument assumes that the threshold question whether the collateral posted under that Agreement constitutes "property of the estate" to which the stay even applies will be resolved in favor of the SDR and NOLHGA.

11. Indeed, the Permanent Injunction entered by this Court does not in any way prohibit Northstar from pursuing a resolution of the termination dispute. Paragraph 5.1 of the Permanent Injunction entered on September 22, 2008 which provides:

> An automatic stay is in effect with respect to actions against Defendants or their property as provided by TEX. INS. CODE § 443.008(c). In accordance with TEX. INS. CODE § 443.008(f), such stay of actions against Defendants is in effect for the duration of this proceeding, and the stay of actions against Defendants' property is in effect for as long as the property belongs to the receivership estate.

Again, as a condition precedent to the continued stay of actions against the property of the estate, *the property at issue must belong to the estate.* Indeed, Paragraph 5.1 of the Permanent Injunction, cited above, specifically recognizes that stay applies for only so long as "the property belongs to the receivership estate." Indeed, the express language of Paragraph 4.7 of the Permanent Injunction, which provides that the stay applies to "prosecuting any . . . arbitration . . . against Defendants, Defendants' Property or any part thereof, or the Liquidator; ***except as permitted by TEX. INS. CODE Chapter 443.***" (Emphasis added.) §§ 443.008(h)(1) and (2) of the

Texas Insurance Code provide two independent bases for lifting the stay to permit Northstar's arbitration against Lincoln to proceed with respect to the issue whether the Agreement was properly terminated. Accordingly, the Permanent Injunction expressly permits lifting the stay under the precise circumstances presented here.

12. Further, Northstar has the right to arbitrate this issue. Section 443.005(c)(2)(e) of the Receivership Act clearly preserves any contractual right to arbitrate that applied prior to Lincoln's insolvency. Article IX of the Agreement contains just such a contractual right. Moreover, the arbitration agreement found in Article IX of the Agreement is itself extremely broad, providing that "[a]ll disputes and differences between [Lincoln] and [Northstar] on which an agreement cannot be reached will be decided by arbitration." (Exh. 1, Art. IX.) Thus, the parties expressly agreed to an extremely broad arbitration provision that mandates arbitration of *all* disputes and differences – including the threshold issue at hand, whether the Agreement was properly terminated on May 2, 2008.

13. In the section of the "Special Exceptions" entitled "Relief sought by SDR and NOLHGA," the SDR and NOLHGA request that this Court "bar Northstar from submitting pleadings or evidence outside the scope of its lift stay motion." (Special Exceptions, ¶ 4.1.) Presumably, this request for relief represents a veiled allegation that Northstar is somehow hoping to use the motion to lift stay to address the merits of its claim that the Agreement was properly terminated on May 2, 2008. As Northstar has stated herein, Northstar believes that an arbitration panel should decide the issue whether the Agreement was properly terminated on May 2, 2008. Indeed, it is NOLHGA that, in its objections to Northstar's motion to lift stay, has argued the merits of the termination issue, by complaining that the termination was somehow ineffective and/or that a terminal accounting is required. Northstar contends that an arbitration

panel should decide these issues. Should NOLHGA nonetheless continue to raise arguments that go to the merits of the termination issue before the Court at the hearing in this matter, then Northstar will respond as appropriate.

2. Northstar Does Not Seek to Lift the Stay in Order to Resolve Any Claims It May Have Against the Estate.

14. The SDR and NOLGHA continue to mischaracterize Northstar's action as attempting to seek damages against the estate, and have now added the gloss that because Northstar does not waive its claims against the estate, it necessarily is seeking to lift the stay in order to obtain damages. This is nonsense. As Northstar has repeatedly stated, all Northstar seeks is a determination that the Agreement was properly terminated on May 2 2008, that Northstar bears no further liability under the Agreement and that, in the absence of such liability, Northstar has no further security obligations under the Agreement, such that the amounts that Northstar previously posted as security may be released to Northstar. Northstar does not seek payment of past due amounts owed to it by Lincoln. To the extent that, for some reason, the issue regarding termination of the Agreement is not resolved in Northstar's favor, Northstar's other claims in the underlying action will remain pending until such time as the Court determines those claims may be resolved.

3. Northstar Has Pleaded Cause Sufficient to Lift the Stay, and Will Provide Evidence of Such at the Evidentiary Hearing Scheduled for the Motion to Lift the Stay.

15. The SDR and NOLHGA claim that "Northstar submits no pleading or evidence to establish 'cause'" as defined in the Receivership Act. As an initial matter, the complaint about Northstar's alleged failure to submit evidence on this point serves only to demonstrate further how the SDR and NOLGHA have improperly attempted to obtain summary judgment under the guise of special exceptions. Moreover, Northstar will provide evidence that cause exists to lift

the stay at the appropriate time and place – namely, at the evidentiary hearing that has been scheduled regarding Northstar's motion to lift stay.

16. In addition, the SDR and NOLGHA's contention that Northstar has submitted no pleading to establish cause blatantly ignores – or, worse, purposefully misstates – Northstar's prior submissions in this case. Paragraphs 14-18 of Northstar's Motion to Lift Stay and Paragraphs 14-16 and 19 of Northstar's Reply in Support of its Motion to Lift Stay all detail the cause that exists to justify lifting the stay in this case.

4. The United States Bankruptcy Code Provides Persuasive Authority for Consideration of the Circumstances Under Which it is Appropriate to Lift the Stay in this Proceeding.

17. The SDR and NOLGHA continue to insist that the United States Bankruptcy Code "differs significantly" from the Texas Receivership Act, such that a motion to lift a stay under the Texas Receivership Act and a motion to lift a stay under the Bankruptcy Code require significantly different analysis. In so arguing, the SDR and NOLHGA have made the vague assertion that case law under the Bankruptcy Code "is particularly not [sic] applicable given the changes to the statutory language over time by the United States Congress." (Special Exceptions, ¶ 2.1.D.) Of course, the SDR and NOLGHA do not identify what those purported changes might be.

18. Contrary to the SDR's and NOLGHA's assertions, and as Northstar has previously argued, various federal courts have recognized that the Bankruptcy Code and case law interpreting the Bankruptcy Code can be persuasive authority when analyzing an analogous provision under state law. *See, e.g., In re AFI Holding, Inc.*, 525 F.3d 700, 703 (9th Cir. 2008) ("Where state statutes are similar to the Bankruptcy Code, cases analyzing the Bankruptcy Code provisions are persuasive authority."); *Badalament, Inc. v. Mel-O-Ripe Banana Brands, Ltd.*, 265 B.R. 732, 738 (E.D. Mich. 2001) (applying the same analysis in interpreting whether Canadian

bankruptcy provisions require proceedings to be stayed for a non-bankruptcy co-defendant as the court would use in interpreting the analogous provisions in the Bankruptcy Code). Thus, Northstar has properly referred to federal bankruptcy law for guidance as to the appropriate circumstances under which the stay should be lifted. Those circumstances include situations in which the court must resolve whether the property at issue even comprises part of the insolvent estate – precisely the issue that Northstar seeks to have resolved by lifting the stay to proceed with arbitration of the Termination Issue. *See In re White*, 851 F.2d 170, 174 (6th Cir. 1988) (upholding trial court's decision to lift bankruptcy stay to allow divorce proceeding to conclude because, "until [the domestic relations court] makes a specific determination of the property rights as between the Debtor and his spouse, what is property of the Debtor's estate in this cause is unclear, and the reorganization of Debtor's business cannot proceed in an orderly fashion."); *In re Paro*, 362 B.R. 419, 427 (Bankr. E.D. Ark. 2007) (lifting stay in order to allow state court to determine whether debtor or third-party had title to certain real estate); *see also In re Stockwell*, 262 B.R. 275, 283 (Bankr. D. Vt. 2001) (retroactively lifting stay to allow foreclosure action pending at the time of bankruptcy to proceed).

5. Northstar Has Not Contended that "Alleged Evidence and Argument of 'Cause' Should Be Considered Outside the Express Terms of Tex. Ins. Code §443.008(h)(1)."

9. In Special Exception 2.1.E, the SDR and NOLGHA apparently continue to maintain that "cause" under the Texas Receivership Act is limited to the set of circumstances specifically articulated in §443.008(i). In reiterating this argument, the SDR and NOLGHA have continued to ignore both the plain language of §443.008(i) and Texas law on statutory construction.

10. Section 443.008(i), which provides, in pertinent part, that:

> "cause" *includes* the receiver canceling a policy, surety bond, or surety undertaking if the creditor is entitled, by contract or by law, to require the insured or the principal to have a policy, surety bond, or surety undertaking and the insured or the principal fails to obtain a replacement policy, surety bond, or surety undertaking . . .

§443.008(i)(emphasis added). Pursuant to § 311.005 of the Texas government code, "'includes' and 'including' are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded." TEX. GOV. CODE, §311.005(13). In accordance with this statutory definition, Texas courts have repeatedly construed the word "include" to signify a non-exclusive list. *E.g.*, *State v. Vasilas*, 187 S.W.3d 486, 488-92 (Tex. Crim. App. 2006); *H.G. Sledge, Inc. v. Prospective Inv. & Trading Co., Ltd.*, 36 S.W.3d 597, 603 (Tex. App. – Austin 2000, pet. denied); *Wilburn v. State*, 824 S.W.2d 755, 762 (Tex. App. – Austin 1992, no writ). Thus, the contention that "cause" only exists under one limited set of circumstances contravenes the explicit pronouncements of both the Texas legislature and the Texas courts regarding the meaning of the word "includes" and, therefore, must be rejected.

6. The Issue Whether Northstar Can Offer "Clear and Convincing Evidence" that Arbitration of the Termination Issue Will Not Burden the Estate Is Not a Proper Issue for Resolution by Special Exception.

19. The SDR and NOLHGA complain that Northstar has not provided any "evidence to contradict the SDR's verified statement that litigating before Northstar's arbitration panel will be an immense burden to the estate." (Special Exceptions, ¶2.1.F.) Again, this argument is not directed toward any insufficiency in Northstar's pleading, but simply makes the claim that Northstar cannot meet particular burden of proof with respect to what is apparently a disputed issue of fact. Thus, the SDR's and NOLHGA's complaint in this regard constitutes the quintessential summary judgment issue – an issue that will, again, be resolved during the hearing

in this matter . The Court should not permit the SDR and NOLHGA to pervert the rule pertaining to special exceptions in order to obtain summary judgment on this issue.

7. Northstar is Entitled to Plead in the Alternative.

20. The SDR and NOLHGA next purport to "specially except" to the fact that Northstar contends "that it has no obligations under the Reinsurance Agreement, as amended, while it's [sic] Exhibit B, claims to terminate the contract but further asserts claims under the same contract in arbitration." (Special Exceptions, ¶ 2.1.G.) To the extent that this "special exception" can even be parsed, the SDR and NOLHGA apparently contend that Northstar cannot plead in the alternative – that is, that Northstar cannot claim both that the Agreement is terminated and that it has a right to rescission of the Agreement. Northstar has every right to so plead, however. Northstar maintains that it properly terminated the Agreement on May 2, 2008, such that Northstar has no further obligations under the Agreement. Such a finding would moot any further disputes under the Agreement. Should the factfinder ultimately find that the Agreement was not properly terminated, however, Northstar's claims that Lincoln fraudulently induced Northstar to enter into the Agreement, such that Northstar is entitled to rescission and restitution for damages resulting from the fraud, would remain. No inconsistency exists.

8. Northstar Is Entitled to Seek to Lift the Stay for a Determination Whether the Agreement Constitutes "Property of the Estate."

21. The SDR and NOLHGA next specially except to Northstar's alleged contention "that the Liquidation Order does not affect Northstar's efforts to seize estate assets, that case law under the United States Bankruptcy Code governs this proceeding, and that the Northstar [sic] can sue the SDR without filing a proof of claim." (Special Exceptions, ¶ 2.1.H.) As an initial matter, the SDR and NOLHGA have essentially created a compound special exception, which

really consists of three independent bases for purported complaint. Northstar addresses each of these in turn.

22. The special exception to Northstar's purported contention "that the Liquidation Order does not affect Northstar's efforts to seize estate assets" once again assumes the threshold question *whether* the Agreement and associated collateral constitute property of the estate. As discussed above, this is the precise issue that Northstar seeks to resolve – and represents a disputed issue of fact requiring an evidentiary hearing. Thus, the SDR and NOLHGA have not identified an insufficiency in Northstar's pleading, but rather seek to resolve a substantive dispute under the guise of a "special exception." The Court should not permit the SDR and NOLGHA to do so.

23. Further, SDR's and NOLHGA's contention that Northstar has asserted that the United States Bankruptcy Code "governs" this proceeding is wrong as a factual matter. Northstar has simply argued that the Bankruptcy Code provides persuasive authority for this Court in considering the issues raised by Northstar's motion to lift stay. This issue is further discussed in Paragraphs 16-17, above.

24. Finally, as discussed above in Paragraph 13, Northstar does not seek to resolve a "claim against the estate" as that term is used in the Receivership Act, which makes clear that a "claim" refers to an action for monetary amounts owed. *See* Texas Insurance Code, Sec. 443.252. Rather, Northstar seeks only a determination that the Agreement was properly terminated on May 2, 2008, that Northstar bears no further liability under the Agreement and that, in the absence of such liability, Northstar has no further security obligations under the Agreement, such that the amounts that Northstar previously posted as security may be released to Northstar. Thus, no proof of claim is required under Section 443.251 of the Receivership Act.

9. Northstar is Entitled to Submit Evidence of Undue Hardship to Establish Cause to Lift the Stay.

25. The SDR and NOLHGA next specially except to evidence of Northstar's financial condition, stating that "nothing in the *Texas Insurer Receivership Act* provides that a movant's alleged financial condition is admissible on a motion to lift stay." (Special Exceptions, ¶ 2.1.J.) Of course, this argument follows only if one accepts the overly-restrictive definition of "cause" for lifting the stay advanced by the SDR and NOLGHA. For the reasons discussed at Paragraphs 9-10 herein, and in Northstar's prior submissions, the Court should reject this limited reading of § 443.005(i). Rather, the Court should find that "[c]ause is an intentionally broad and flexible concept, made so in order to permit the courts to respond in equity to inherently fact-sensitive situations." *Mooney v. Gill*, 310 B.R. 543, 546-47 (N.D. Tex. 2002) (stating that "cause" may include a desire to permit an action to proceed to completion in another tribunal); *see also In re Hudgins*, 188 B.R. 938, 946 (Bankr. E.D. Tex. 1995) (stating that "cause" encompasses many different situations).

26. Acceptance of the proposition that "cause is an intentionally broad and flexible concept" necessarily translates into acceptance of the fact that a court may consider any evidence it deems pertinent to its ability "to respond in equity to inherently fact-sensitive situations." In this case, that evidence includes the financial hardship that Northstar currently suffers and will continue to suffer while its capital is tied up as security for a contract that Northstar properly terminated almost eight months ago.

10. The Affidavit Filed by the SDR Is Not Based on Personal Knowledge.

27. Finally, the SDR and NOLHGA object to Northstar's alleged contention that "not only federal bankruptcy law governs this proceeding but also that federal procedural law governs a state court's consideration of an affidavit." (Special Exceptions, ¶2.1.J.) Northstar has already

repeatedly addressed the SDR's and NOLHGA's misstatement of the role that Northstar has contended that federal bankruptcy law should play in the Court's consideration of whether "cause" exists to lift the stay and will not reiterate those arguments. With respect to the affidavit filed by the SDR, the SDR and NOLHGA have apparently missed the citation to the Texas Rules of Civil Procedure set forth in Paragraph 34 of Northstar's Reply in Support of Motion to Lift Stay, as well as the citation to the Texas appellate court's decision in *Dimon v. Trendmaker, Inc.*, No. 14-96-01081-CV, at *6 (Tex. Ct. App. 1998).

28. To be clear, the Texas Rules of Civil Procedure require affidavits in a summary judgment context to "be made on personal knowledge" setting forth "such facts as would be admissible in evidence" and showing "affirmatively that the affiant is competent to testify to the matters stated therein." Tex. R. Civ. P. 166a(f). In *Dimon*, the appellate court stated that "[i]t is well settled that conclusory statements in an affidavit unsupported by facts are insufficient to support or defeat summary judgment," although the appellate court found that the affidavit in question sufficiently raised a question of fact. No. 14-96-01081-CV, at *6

29. In this case, the SDR has no personal knowledge of the factual issues giving rise to the termination. In fact, the SDR did not become involved until Lincoln was placed into rehabilitation on May 13, 2008. All of the events that resulted in the termination of the Agreement took place well before that date, with the thirty-day notice of termination being sent to Lincoln on April 2, 2008. Moreover, the SDR's affidavit contains nothing more than the conclusory, self-serving statement that the SDR "read the attached Response and the statements contained therein are true and correct." Under *Texas* law, therefore, the SDR's affidavit holds no evidentiary weight.

30. Finally, the SDR's and NOLHGA's complaint that Northstar has somehow improperly stated the standard for consideration of an affidavit constitutes an argument about the *weight* afforded to the affidavit. In no way does that complaint attack a legal insufficiency in Northstar's pleading. Thus, yet again, the SDR and NOLHGA have improperly attempted to use a special exception as a vehicle for obtaining summary judgment.

III. CONCLUSION

31. For all of the foregoing reasons, the Court should dismiss the SDR's and NOLHGA's Special Exceptions in their entirety.

Dated: December 31, 2008

Respectfully submitted,

By: _____

Mary F. Keller
State Bar No. 11198299

WINSTEAD PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701
Telephone: (512) 370-2800
Facsimile: (512) 370-2850

Michael R. Hassan
Randi Ellias
Butler Rubin Saltarelli & Boyd LLP
70 West Madison Street, 18th Floor
Chicago, Illinois 60602
(312) 444-9660

PETITIONER NORTHSTAR REINSURANCE IRELAND LIMITED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via electronic transmission in accordance with the Texas Rules of Civil Procedure on this the 31st day of December, 2008, to the following counsel:

Via Email: Leanne.Layne@tdi.state.tx.us
Leanne Layne
Texas Department of Insurance
Liquidation Oversight - 305-1D
PO Box 149104
Austin, TX 78714-9104

Via Email: Rachel.Giani@tdi.state.tx.us
Rachel Giani
Texas Department of Insurance
Financial Counsel/Legal Services - 821
PO Box 149104
Austin, Texas 78714-9104

Via Email: James.Kennedy@tdi.state.tx.us
James Kennedy
Texas Department of Insurance
872- Legal Services\Liquidation Allocated
110-1A
PO Box 149104
Austin, Texas 78714-9104

Via Email: Kathy.Gartner@tdi.state.tx.us
Kathy Gartner
Texas Department of Insurance
582 - Rehabilitation & Liquidation Oversight
305-1C
PO Box 149104
Austin, Texas 78714-9104

Via Email: jrixen@rixenlaw.com
Jackie Rixen
The Law Office of Jacqueline Rixen
8500 N. Mopac, Suite 605
Austin, Texas 78759
Counsel to TLAHHSIGA

Via Email: jglover@rothgerber.com
Joel A. Glover
Rothgerber, Johnson & Lyons LLP
One Tabor Center, Suite 3000
1200 Seventeenth Street
Denver, CO 80202
Counsel to NOLHGA Task Force

Via Email: hdeleon@dbilaw.com
Hector De Leon
De Leon, Boggins & Icenogle
221 W. 6th Street, Suite 1050
Austin, Texas 78701
Counsel for National Heritage Enterprises, Inc. and Forever Enterprises, Inc.

Via Email: Jean.Sustaita@tdi.state.tx.us
Jean Sustaita
Texas Department of Insurance
582 Liquidation Oversight
PO Box 149104
Austin, Texas 78714-9104

Via Email: jramsey@jramsey-law.com
Jennifer Ramsey, P.C.
400 W. 15th St., Suite 200
Austin, Texas 78701-1647

Via Email: jennifer.jackson@oag.state.tx.us
Jennifer Jackson
Ass't. Attorney General
PO Box 12548
Austin, TX 78711-2548

Via Email: karen.pettigrew@oag.state.tx.us
Karen Pettigrew
Ass't. Attorney General
PO Box 12548
Austin, TX 78711-2548

Via Email: ekaye@skeltonwoody.com
Edward F. Kaye
Skelton & Woody
PO Box 1609
Austin, TX 78767-1609

Via Email: eric.haab@lovells.com
Eric Haab
Lovells, LLP
330 N. Wabash Avenue
Suite 1900
Chicago, IL 60611
Counsel for Hannover Life Re

Via Email: kyelkin@gardere.com
Kimberly Yelkin
Gardere Wynne Sewell
600 Congress Ave. Suite 3000
Austin, TX 78701-2978

Via Email: sharon.euler@ago.mo.gov
Sharon K. Euler
Assistant Attorney General
Fletcher Daniels State Office Bldg.
615 E 13th Street Suite 401
Kansas City MO 64112

Via Email: phobbs@mcginnislaw.com
Penny Hobbs
McGinnis, Lochridge & Kilgore
600 Congress Avenue #2100
Austin, TX 78701
Counsel for Henneke Funeral Home

Via Email: Douglas.schmidt@huschblackwell.com
Douglas Schmidt
Husch Blackwell & Sanders
4801 Main Street #1000
Kansas City, MO 64112

Via Email: hskelton@skeltonwoody.com
J. Hampton Skelton
Skelton & Woody
PO Box 1609
Austin, TX 78767-1609

Via Email: Marybeth.wilkinson@lovells.com
MaryBeth Wilkinson
Lovells, LLP 330 N. Wabash Avenue
Suite 1900
Chicago, IL 60611
Counsel for Hannover Life Re

Via Email: kay.wilde@lovells.com
Kay Wilde
Lovells, LLP
330 N. Wabash Avenue
Suite 1900
Chicago, IL 60611
Counsel for Hannover Life Re

Via Email: jwerner@rmqlawfirm.com
John Werner
Reaud, Morgan & Quinn LLP
801 Laurel Street
PO Box 26005
Beaumont, TX 77720-6005
Counsel for Broussard's Mortuary, Inc.

Via First Class Mail
Internal Revenue Service
Special Procedures Branch
P.O. Box 250
300 East 8th Street, Suite 352
Mail Stop 5022AUS
Austin, TX 78701

Via First Class Mail
Chad J. Snyder
Denzer-Farison-Hottinger & Snyder Funeral Home
360 East Center Street
Marion, OH 43302

Via Email: lyork@mcginnislaw.com
Larry York
McGinnis, Lochridge & Kilgore
600 Congress Avenue #2100
Austin, TX 78701
Counsel for Henneke Funeral Home

Via Email: mponder@cbmplaw.com
J. Michael Ponder
Cook, Barkett, Maguire & Ponder, L.C.
715 N. Clark
P.O. Box 1180
Cape Girardeau, MO 63702-1180
Interim Class Counsel for James & Gahr

Via Email: jwhatley@wdklaw.com
Joe R. Whatley
Whatley Drake & Kallas, LLC
1540 Broadway, 37th Floor
New York, NY 10036
Interim Class Counsel for James & Gahr

Via Email: bmcculley@mcculleymccluer.com
R. Bryant McCulley
McCulley McCluer, PLLC
One Independent Drive, Suite 3201
Jacksonville, FL 32202
Interim Class Counsel for James & Gahr

Via Email: tbutler@wdklaw.com
Thomas J. Butler
Whatley Drake & Kallas, LLC
2001 Park Place North, Suite 1000
Birmingham, AL 35203
Interim Class Counsel for James & Gahr

Via Email: smccluer@mcculleymccluer.com
Stuart H. McCluer
McCulley McCluer, PLLC
1109 Van Buren Avenue
Oxford, MS 38655
Interim Class Counsel for James & Gahr

Via Email: cfuller@fullerlaw.org
Christopher Fuller
Fuller Law Group
4612 Ridge Oak Dr
Austin, TX, 78731
Counsel for Special Deputy Receiver

Via Email: SNewberg@banking.state.tx.us
Stephanie Newberg
Texas Department of Banking

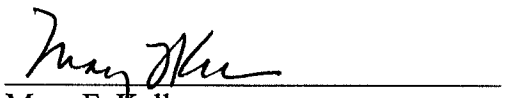
Via Email: foloughlin@rothgerber.com
Frank O'Loughlin
Rothgerber, Johnson & Lyons LLP
One Tabor Center, Suite 2000
1200 Seventeenth Street
Denver, CO 80202
Counsel to NOLHGA Task Force

Via Email: coliver@rothgerber.com
Cindy C. Oliver
Rothgerber, Johnson & Lyons LLP
One Tabor Center, Suite 3000
1200 Seventeenth Street
Denver, CO 80202
Counsel to NOLHGA Task Force

Via Email: charles@elpolaw.com
Charles E. English
English Lucas Priest & Owsely, LLP
1101 College Street
P.O. Box 770
Bowling Green, Kentucky 42102-0770
Counsel for Hardy & Son Funeral Homes

Via Email: mhassan@butlerrubin.com
Michael R. Hassan
Butler Rubin Saltarelli & Boyd LLP
70 West Madison Street, Ste. 1800
Chicago, IL 60602

Via Email: rellias@butlerrubin.com
Randi L. Ellias
Butler Rubin Saltarelli & Boyd LLP
70 West Madison Street, Ste. 1800
Chicago, IL 60602



Mary F. Keller