IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

In Re: The Receivership of
Sawgrass Mutual Insurance Company,
a Florida corporation
_____/

CASE NO.: 2018-CA-001810

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF REHABILITATION AND LIQUIDATION'S MOTION TO EXTEND THE CLAIMS FILING DEADLINE AND ESTABLISH A CLAIMS BAR DATE

The Florida Department of Financial Services, as Receiver for Sawgrass Mutual Insurance Company ("Sawgrass", "SMIC" or "the Department'), files this Motion to Extend the Claims Filing Deadline and Establish a Claims Bar Date, and states as follows:

BACKGROUND

1. This Court appointed the Department as Receiver of Sawgrass on October 1, 2018. *Order Appointing the Florida Department of Financial Services as Receiver of Sawgrass Mutual Insurance Company for Purposes of Liquidation, Injunction and Notice of Automatic Stay* ["the Liquidation Order"].

2. The Liquidation Order at paragraph 33 established a deadline for filing proof of claims in the SMIC Estate of six months from the date the order was entered. The Liquidation Order also specified that the claims filing deadline was intended to act as a claims bar date after which no further claims may be filed. Since the Liquidation Order was signed on November 28, 2018 (*nunc pro tunc* to October 2018), the deadline and bar date published was May 28, 2019.

3. A former officer and a former director timely appealed the receivership court's denial of their Motion to Intervene. That appeal, styled *Guy Marvin, III and*

Daniel R. O'Neal v. State of Florida, etc., Sawgrass Mutual Insurance Company, Inc., Case No. 1D18-5315, remained pending before the First District Court of Appeal until March 26, 2021 when the court issued its Mandate after a decision in a companion appeal. No appeal was taken to the Florida Supreme Court.

4. A former attorney for Sawgrass, who also represented the former officer and director in their appeal, filed a timely appeal purportedly on behalf of the company challenging the validity of the Liquidation Order. That appeal styled *Sawgrass Mutual Insurance Company v. State of Florida, etc.,* Case No. 1D18-5316 remained pending before the First District Court of Appeal until March 26, 2021 when the court issued its Mandate after entering an opinion on March 5, 2021, upholding the validity of the Liquidation Order. No appeal was taken to the Florida Supreme Court.

5. In the meantime, The Florida Insurance Guaranty Association ["FIGA"] filed a *Motion for Leave to Intervene as an Indispensable Party*, along with a *Petition for Declaratory Judgment*, as to the responsibility for approximately 72 Sawgrass claims, which the receivership court granted on August 14, 2019. On August 26, 2019, FIGA filed a *Motion for Leave to Add Heritage Property and Casualty Insurance Company as An Indispensable Party* which the court granted on August 29, 2019. On October 4, 2019, Heritage Insurance Company filed an *Answer and Counter-Petition for Declaratory Judgment.* That matter was resolved by entry of a final judgment on June 30, 2022.

6. To date, thirty [30] claims have been filed in the Sawgrass estate pursuant to Fla. Stat. 631.182.

NECESSITY OF ESTABLISHING NEW CLAIMS DEADLINE AND BAR DATE

7. The initial deadline and bar date for filing a proof of claim in the Sawgrass Estate expired during the pendency of the appeal of the Liquidation Order.

8. Moreover, due to that appeal, FIGA was not fully triggered until April 4, 2021 when the First District Court of Appeal's decision upholding the Liquidation Order became final. *See,* Fla. Stat. 631.54 (7).

9. However, by statute, FIGA's deadline for accepting and resolving claims from Sawgrass policyholders and claimants expired within one year of the claims filing deadline established by the Department as Receiver: a date also prior to the Liquidation Order being final. *See,* Fla. Stat. 631.68.

10. At this point, there is a final resolution as to FIGA's responsibility for over 70 claims that may be part of the transfer of Sawgrass claims/policies to Heritage.

11. Because of the passage of the deadlines outlined in the Liquidation Order and coverage issues between FIGA and Heritage, certain former Sawgrass policyholders may be adversely affected if the Department as Receiver's claims filing deadline and bar date outlined in the Liquidation Order are not extended beyond May 28, 2019.

STATUTORY AUTHORITY TO ACT

12. Pursuant to section 631.021(1), Florida Statutes, this Court has jurisdiction over the Sawgrass receivership and is authorized to enter all necessary and/or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, Part I, Chapter 631, Florida Statutes ("the Act").

13. The Act is to be interpreted liberally and equitably, as stated in section 631.001:

631.001 Title, construction, and purpose.

(1) This part constitutes and may be cited as the "Insurers Rehabilitation and Liquidation Act.

(2) This part shall be liberally construed to effect the purposes of this part.

(3) The purposes of this part, which are integral elements of the regulation of the business of insurance and are of vital public interest and concern, are to:

(a) Protect the interests of policyholders, creditors, and other claimants and the public. [emphasis added]

14. The statutory scheme for receivership estates and FIGA contemplates that under certain circumstances, there will be an extension of the deadline for filing claims. *See,* Fla. Stat. 631.68.

15. Finally, the Receiver is entitled to "petition the receivership court to set a date certain after which no further claims may be filed." *See.* Fla. Stat. 631.181(5).

REQUESTED RELIEF

16. Based on the facts and circumstances of this estate, the Department requests that the receivership court establish a new claim filing deadline for claimants in the Sawgrass Estate. The new claim filing deadline requested is the date the order is entered on this Motion.

17. The Department would further move this court to establish the new claim filing deadline listed above to also be the "date certain after which no further claims may be filed", i.e. a claims "bar" date.

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WHEREFORE the Department of Financial Services as Receiver for Sawgrass, respectfully requests the Court to grant this Motion and enter an Order setting a new deadline for filing proof of claims with the Department as Receiver, and establish that same date as the deadline after which no further claims may be filed.

Respectfully submitted this 3rd day of August 2022.

/s/ Miriam Victorian
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