

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

In Re: The Receivership of
Florida Specialty Insurance Company,
a Florida corporation.

CASE NO.: 2019 CA 002328

**THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES' MOTION FOR
AUTHORIZATION APPROVING PROCEDURE OF DEEMING RETURN PREMIUM
CLAIMS AS TIMELY FILED**

The Florida Department of Financial Services, Division of Rehabilitation and Liquidation, as Receiver of Florida Specialty Insurance Company (hereinafter "Department") hereby files its Motion for Authorization Approving Procedure of Deeming Return Premium Claims as Timely Filed pursuant to Section 631.181(1)(g), Florida Statutes, and as grounds therefore states the following:

1. On October 2, 2019, this Court entered a *Consent Order Appointing the Florida Department of Financial Services as Receiver of Florida Specialty Insurance Company for purposes of Liquidation, Injunction, and Notice of Automatic Stay* ["Liquidation Order"].

2. On October 25, 2019, this Court entered, an *Amended Order Appointing the Florida Department of Financial Services as Receiver of Florida Specialty Insurance Company for purposes of Liquidation, Injunction, and Notice of Automatic Stay* ["Amended Liquidation Order"].

3. On November 1, 2019, this Court entered an order approving the Florida Insurance Guaranty Association's ["FIGA] Emergency Petition for Declaratory Judgement permitting FIGA to pay the Class 2 and Class 3 claims of FSIC pending a finding by this court of insolvency.

4. This Court has jurisdiction over the Florida Specialty Insurance Company ("FSIC") 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, Section 631.021(1), Florida Statutes.

5. Pursuant to the provision of section 631.252, Florida Statutes, paragraph 19 of the Liquidation Order states “all policies of insurance or similar contracts of coverage that have not expired are cancelled on the date 30 days from the entry of this Order”, the policies were therefore canceled at 12:01 a.m. on November 1, 2019.

6. If the FSIC policy cancellation took place before the normal policy term expiration date, the policyholders may be entitled to a refund of the unearned premium. “Policyholder” shall refer to all FSIC insureds whose policies were canceled pursuant to the terms of the Liquidation Order or whose policies were otherwise canceled or changed, and who may be owed a refund of premium.

7. When an insurer is placed in liquidation, the Department coordinates with the Guaranty Associations to facilitate the return of premium to the policyholders of the liquidated insurer. The return premium falls within the definitions of a “covered claim” pursuant to Section 631.54(43), Florida Statutes, and is a Class 3 claim in the Estate under Section 631.271(1)(c), Florida Statutes, respectively.

8. Pursuant to Section 631.181(2)(g), Florida Statutes “the receivership court may allow alternative procedures and requirements for the filing of proofs of claim or for allowing or proving claims” upon the Receiver’s motion. Should the Receiver apply for such alternate procedure, and the court approve same, “a timely proof of claim by such person, class or group is deemed to be filed for all purposes.”

9. In an effort to reduce the costs, increase the efficiency of the claims process, and to speed the recovery of return premium to policyholders enabling them to purchase replacement insurance, the Department proposes an alternative process whereby it will deem as timely filed all potential claims in the FSIC estate for “Return Premium.” All other claimants will receive a POC in the normal fashion.

10. The Department proposes the following POC procedure for policyholders who may have a return premium claim:

- A. The Department will not require POC's from policyholders who have a potential claim in the FSIC estate for return premium. Potential claims include those policyholder claimants who had their policies cancelled by the Liquidation Order and who the Department calculates are due return premium.
- B. The policyholders included above in paragraph 10A do not need to do anything to file a claim for the return premium or have their claim accepted by the Department.
- C. The return premium claims identified above will be considered as timely filed in the FSIC estate.
- D. Once the claims in the FSIC estate have been evaluated, the Department will advise the claimants of the determination of the class and amount of their claims. The claimants will have an opportunity to object to the Department's evaluation pursuant to Section 631.281, Florida Statutes.
- E. If the Department cannot resolve the Claimant's objection, the Department will schedule a hearing with the Receivership Court.

11. The procedure will not affect the rights of any other claimants in the FSIC estate.

12. The Department believes that these actions are in the best interests of this FSIC estate and therefore recommends that the Motion be granted, and the process proposed above be authorized and approved.

WHEREFORE, the Department requests that this Court enter an order approving the procedure for deeming return premium claims as timely filed in the FSIC estate.

Respectfully submitted this 13th day of November, 2019.

/s/ Yamile Benitez-Torviso

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served all parties who have entered an appearance on the ECF system with a copy of this Motion.

/s/ Yamile Benitez-Torviso

Yamile Benitez-Torviso