

FILED
07-07-2025
CIRCUIT COURT
DANE COUNTY, WI
2023CV001310

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 15

DANE COUNTY

In the Matter of the Liquidation of:

Wisconsin Reinsurance Corporation and 1st
Auto & Casualty Insurance Company

Case No.: 2023CV1310
Case Code: 30701

OBJECTION/MOTION TO HAVE PROOF OF CLAIM DEEMED TIMELY FILED

NOW COMES Claimant Dollar Tree Stores, Inc. by and through its attorneys, Kopka Pinkus Dolin PC, and for its Motion to Have its Proof of Claim Deemed Timely Filed pursuant to Wis. Stat. 645.61(2), states as follows:

FACTUAL BACKGROUND

1. Claimant Dollar Tree Stores, Inc., (“Dollar Tree”), a Virginia Corporation, is self-insured for certain workers compensation claims in the state of Missouri. Kwain Declaration, ¶ 3, Ex. A.
2. Sedgwick is retained as the third-party claims administrator for Dollar Tree’s Missouri worker’s compensation claims. *Id.*, ¶ 3.
3. On February 1, 2021, Sharon Hostetler, a Dollar Tree employee, was struck and injured by a customer’s vehicle on Dollar Tree premises in Springfield, Missouri. *Id.*, ¶ 4, Ex. A.
4. Ms. Hostetler subsequently filed a worker’s compensation claim against Dollar Tree. *Id.*, ¶ 5, Ex. A.
5. The customer whose vehicle struck Ms. Hostetler was insured by 1st Auto & Casualty Company. *Id.*, ¶ 6.
6. Dollar Tree, through Sedgwick, made payments totaling \$120,002.49 to Ms. Hostetler pursuant to her worker’s compensation claim. *Id.*, ¶ 7.

7. In October 2022, Sedgwick, on behalf of Dollar Tree, began collection efforts from 1st Auto, seeking to recover from 1st Auto the funds expended pursuant to Ms. Hostetler's worker's compensation claim. *Id.*, ¶ 8.

8. From October 2022 through October 30, 2024, Sedgwick regularly corresponded with 1st Auto by phone and email regarding the claim. *Id.*, ¶¶ 8-9.

9. By order of this Court on January 1, 2024, 1st Auto & Casualty Company ("1st Auto") was placed into liquidation pursuant to Wis. Stat. § 645.41. (Dkt. 22.)

10. Despite the existence of the liquidation order, 1st Auto did not inform Sedgwick of the liquidation until October 30, 2024, nearly eleven months after the liquidation order was entered. *Id.*, ¶ 10-11.

11. Sedgwick did not have previous knowledge of the liquidation order. *Id.*, ¶ 11.

12. On October 30, 2024, the same day that Sedgwick learned of the liquidation (and the same day Sedgwick learned of a potential claim in the liquidation proceedings), it contacted the 1st Auto Assistant Liquidation Manager via email to inform the liquidator of the claim, attaching a letter detailing the nature and amount of the claim. *Id.*, ¶¶ 12-13, Ex. C.

13. The Assistant Liquidation Manager responded with instructions regarding the filing of a proof of claim by mail. However, this instruction only provided for submission by physical mail, and omitted that claims could be transmitted by fax and email, both identified as means of submission in the original Notice of Liquidation issued by the Liquidator. *Id.*, ¶ 14-15, Ex. B.

14. The Sedgwick claims representative responsible for the file works remotely and cannot mail materials out. *Id.*, ¶ 16. Sedgwick personnel corresponded internally to coordinate the mailing of the notice, but a lack of in-office personnel delayed mailing of the claim. *Id.*, ¶ 17.

15. Sedgwick mailed a proof of claim pursuant to the instruction of the Assistant Liquidation Manager on or around December 13, 2025. *Id.*

16. Had the Sedgwick claims representative been aware that the claim could be submitted electronically, the claim could have been submitted immediately without the need to coordinate mailing. *Id.*, ¶ 18.

17. Sedgwick later learned that its original proof of claim had not been received, and e-mailed a duplicate proof of claim on May 7, 2025. *Id.*, ¶ 19.

18. By a letter dated May 8, 2025, the Liquidator informed Sedgwick that its proof of claim was being considered as untimely filed, resulting in the claim being classified as a Class 8 claim under Wis. Stat. § 645068. *Id.*, ¶ 20, Ex. D.

ARGUMENT

A claimant may object to a liquidator's determination as to its claim within 60 days of mailing of a notice of such determination. Wis. Stat. § 645.65. Wis. Stat. § 645.61 requires a liquidator, and the court overseeing the liquidation, for good cause shown, to consider a late claim timely filed and allow the late-filing claimant to share in dividends, if payment of the claim will not prejudice the orderly administration of the liquidation. The statute identifies four examples of "good cause," though the list is expressly non-exhaustive. Wis. Stat. § 645.61(2). Among the grounds for good cause is that the "existence of a claim was not known to the claimant and which the claimant filed within 30 days after learning of it." *Id.*

Here, there is good cause shown. 1st Auto, despite being in regular contact with Sedgwick regarding the claim for **almost two years**, failed to inform Sedgwick that the liquidation order was in effect until **eleven months** after the order was entered. Kwain Dec., ¶¶ 8-11. Prior to October 30, Sedgwick was unaware that its only means of recovering its subrogation interest was to file a

claim in liquidation. *Id.*, ¶ 11. And as soon as Sedgwick was made aware of this fact (indeed, **the same day**), it contacted 1st Auto's Assistant Liquidation Manager regarding the claim. *Id.*, ¶¶ 12-13, Ex. C. The manager's emailed response contained inaccurate and incomplete information regarding the means of submitting a proof of claim, only identifying physical mail as a means of filing. *Id.*, ¶¶ 14-15. The response failed to disclose that the claim could be filed by email and by fax—both of which would have been significantly less burdensome means of transmittal for Sedgwick under the circumstances. *Id.*, ¶¶ 14-18. As discussed above, the Sedgwick personnel responsible for the claim faced logistical problems in physically mailing a copy of the proof of claim, but electronic transmission would have not posed the same challenges. *Id.*

On these facts, while it is true that Sedgwick did not formally file its claim within 30 days of its first knowledge of the claim, its proof of claim should nevertheless be considered timely filed. Sedgwick was in immediate contact once it became aware that it could file a claim in liquidation, and would have immediately submitted a claim electronically if it had been aware of the option. When it did mail its proof of claim, it was within a reasonable time, given the lack of in-office personnel who could arrange physical mailing. *Id.*, ¶ 17.

Second, there is no indication that considering the claim timely file would affect the orderly administration of the liquidation. Per the status update filed by the Liquidator's counsel on June 6, 2025, there are 421 timely-filed claims and 27 late-filed claims in the 1st Auto Liquidation, and the status update further indicates that the evaluations of these claims is not yet complete. (Dkt. 70 at 1.) Additionally, as of the end of the first quarter of 2025, 1st Auto's total assets totaled nearly \$9,000,000. (Dkt. 68 at 2.) Dollar Tree's claim would be a comparatively minor addition to the existing timely claims. The allowance of Dollar Tree's claim at this stage in the liquidation, when

many of the timely claims remain unevaluated and unpaid, would not significantly disrupt the administration of the liquidation.

CONCLUSION

For the reasons stated herein, Dollar Tree objects to the Liquidator's determination that its claim is untimely filed. Its proof of claim should be deemed timely filed pursuant to Wis. Stat. § 645.61(2), and it should be permitted to share in dividends.

WHEREFORE, Claimant Dollar Tree Stores, Inc. respectfully moves this Court for a declaration and order to the effect that Dollar Tree has demonstrated that its late-filed claim in this matter was for good cause, and that it shall be permitted to share in dividends, both past and future, as if its late-filed claim were timely filed, pursuant to Wis. Stat. § 645.61(2), together with such relief as the Court deems equitable and just.

Dated this 7th day of July, 2025.

KOPKA PINKUS DOLIN P.C.
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