FILED
10-27-2026
CIRCUIT COURT
DANE COUNTY, WI
2023CV001310

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY
BRANCH 15

In the Matter of the Liquidation of:

Wisconsin Reinsurance Corporation and 1st Auto & Casualty Insurance Company

Case No. 2023CV1310

Case Code: 30703

**NOTICE OF MOTION AND MOTION TO APPROVE PAYMENT OF LIQUIDATED CLASS THREE CLAIMS, TO ESTABLISH A RESERVE FOR REMAINING CLASS THREE CLAIMS, AND TO APPROVE PAYMENT OF CLASS FOUR AND CLASS FIVE CLAIMS**

TO: All Interested Parties

**NOTICE**

PLEASE TAKE NOTICE that the Commissioner of Insurance of the State of Wisconsin, Nathan Houdek, as Liquidator of Wisconsin Reinsurance Corporation and 1st Auto & Casualty Insurance Company (the "Commissioner" or the "Liquidator"), brings this Motion to Approve Certain Disbursements (the "Motion") for hearing, if necessary, before the Circuit Court for Dane County, in the Dane County Courthouse, 215 S. Hamilton Street, Madison, WI 53703-3285, on a date and at a time to be determined by the Court. Objections to the Motion, along with supporting documentation, shall be filed with the Court and served on the Liquidator, by his attorneys, James A. Friedman, Zachary P. Bemis, and Anthony S. Baish of Godfrey & Kahn, S.C., and any other party who has filed an appearance in this action, within 14 days of the filing of the Motion.

## MOTION

The Commissioner, as Liquidator of Wisconsin Reinsurance Corporation ("WRC") and 1st Auto & Casualty Insurance Company ("1st Auto" and collectively, the "Companies"), hereby moves the Court, pursuant to Wis. Stat. § 645.72, and chapter 645 generally, to enter an order approving certain distributions to class three, four, and five claimants, as set forth below. As grounds for this motion, the Commissioner states as follows:

1. Wis. Stat. § 645.72(1) requires the Liquidator, under the Court's direction, to "pay dividends as promptly as possible to security funds under sub. (2) and to other creditors in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including 3rd-party claims."

2. In accordance with that statutory directive, the Liquidator previously sought the Court's approval to pay (i) class one expenses submitted in the liquidation of WRC; (ii) portions of class three claims submitted in the liquidation of WRC; and (iii) class one expenses submitted in the liquidation of 1st Auto. (*See* Dkt. No. 59.) The Court granted that motion. (Dkt. No. 62.)

3. The Liquidator now seeks the Court's approval to pay the remainder of the class three claims (with limited exceptions noted below), as well as all class four and class five claims, submitted in the liquidation of WRC.

### Availability of Claims-Paying Resources

4. As set forth in the Companies' financial statements filed October 26, 2026, WRC had total assets of $17,985,762 at the close of the third quarter of 2026, with $17,615,800 comprised of cash or cash equivalents or assets otherwise immediately available for the payment of claims.

**Class Three Claims as to WRC**

5. The class three claims against the WRC estate fall into two general categories: those in a known, liquidated amount (the "Liquidated Class 3 Claims") and those in an as-yet-unknown, unliquidated amount (the "Unliquidated Class 3 Claims.")

6. The Court recently approved a series of commutation agreements resolving most Unliquidated Class 3 Claims (*see* Dkt. No. 135) for a collective amount of $4,289,805.02 (the "Commutation Payments"). The Liquidator has made the Commutation Payments, which fully resolved the Unliquidated Class 3 Claims covered by the agreements, with the following limited exceptions:

a. One of the claims, Claim No. 93, was recently resolved at mediation for an amount $400,000 greater than the liability limits of the guaranty fund whose claim was commuted. The WRC liquidation estate therefore remains liable for the $400,000 overage, plus additional expenses that have yet to be determined, but that the Liquidator believes will not exceed $50,000.

b. There is a slight possibility that up to two other Unliquidated Class 3 Claims covered by a commutation agreement might ultimately be resolved for an amount that exceeds the liability limits of the mutual insurer or guaranty fund whose claim was commuted, leaving the WRC liquidation estate liable for any overage. The Liquidator believes this outcome is unlikely for either claim, and that even if that unlikely possibility materializes, the estate's aggregate liability on the two claims will not exceed $200,000.

7. Two Unliquidated Class 3 Claims were not covered by a commutation agreement and remain outstanding in full.

8. The Liquidator has adjudicated the Liquidated Class 3 Claims in the aggregate amount of $16,948,595.35.[1]

9. Under authority of the Court's Order Granting Motion to Approve Certain Disbursements (Dkt. No. 62), the Liquidator has paid $8,472,103.15[2] toward the Liquidated Class 3 Claims, leaving $8,435,365.82 yet to be paid, excluding deductibles as required by Wis. Stat. § 645.68(3). The present motion seeks approval to pay the remaining balance on the Liquidated Class 3 Claims.

10. If the Court approves payment of the Liquidated Class 3 Claims, all class three claims will be fully resolved with the exception, as noted above, of (i) actual and potential overages on claims covered by commutation agreements; and (ii) two Unliquidated Class 3 Claims not covered by a commutation agreement (the "Remaining Class 3 Claims"). Based on the Liquidator's investigation and communications with those claimants, the aggregate outstanding amounts of the Remaining Class 3 Claims will not exceed $1,927,000.

11. Wis. Stat. § 645.68 authorizes payment of lower-priority claims after higher-priority claims are "paid in full" or if "adequate funds [are] retained" for their payment. Because the Remaining Class 3 Claims will not become liquidated, and therefore cannot be resolved, for an undeterminable time, the present motion also seeks approval of the Liquidator's retention of

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[1] This amount is slightly higher than shown in the Liquidator's most recent Report Regarding Claims. (*See* Dkt. Nos. 118 and 119.) The discrepancy arises from some Unliquidated Claims becoming liquidated since the filing of that report. With the Court's approval of commutation agreements resolving most remaining Unliquidated Claims, nearly all class three claims are now fully liquidated and adjudicated. The Liquidator anticipates filing in the near future an updated Report Regarding Claims to reflect these changes to the claims landscape.

[2] The Court's Order Granting Motion to Approve Certain Disbursements imposed dollar limits on the Liquidator's interim disbursements to class three claimants. Due to an apparent miscommunication with the staff responsible for making disbursements, the Liquidator's interim payments have exceeded those limits. We regret the error, but note that the interim payments result in a corresponding reduction of the outstanding amount allocable to class three claimants collectively, and because the WRC estate has sufficient resources to pay all class three claims, there has been no prejudice to any other claimants.

$2 million to cover the Remaining Class 3 Claims, allowing the Liquidator to proceed to payment of claims of lower priority than class three. The Liquidator also requests approval to pay the Remaining Class 3 Claims as they become liquidated.

12. If the motion is granted, the WRC liquidation estate, after making payment of the balance on the Liquidated Class 3 Claims and retaining $2 million to cover the Remaining Class 3 Claims, will have remaining claims-paying resources of approximately $7.55 million to pay ongoing administrative costs and remaining claims.

**Class (3c), (3m), and (3r) Claims as to WRC**

13. The Liquidator is not aware of any claims or potential claims against the WRC estate under Wis. Stat. § 645.68 (3c), (3m), or (3r).

**Class Four Claims as to WRC**

14. Class four claims against the WRC liquidation estate total $1,892,374.84 in unearned premiums and/or premium refunds owed to various mutual insurance companies and other insurers.

15. Some claimant insurers owe commissions to WRC according to the terms of the insurance contract between WRC and the claimant insurer. In the aggregate, the commissions owed to WRC total $302,269.02.

16. Under Wis. Stat. § 645.56(1), "[m]utual debts or mutual credits" between WRC and the claimant insurers "shall be set off and the balance only shall be allowed or paid[.]"[3] Thus, after accounting for commissions owed to WRC, the unearned premiums / premium refunds owed by the WRC estate total $1,590,105.82.

[3] Setoffs are not allowed in certain circumstances (Wis. Stat. § 645.56(2)), but none of those circumstances are present in the premium / commission arrangements between WRC and the claimant insurers.

17. In addition to claims for unearned premiums and premium refunds, the class four claims against the WRC liquidation estate include the "first $200 of loss" payable to any class three claimant other than the federal government. *See* Wis. Stat. § 645.68(3), (4). The deductibles from class three claims total $33,426.38, bringing the aggregate class four claims to a grand total of $1,623,532.20. The present motion seeks approval to pay the class four claims in that amount.

18. If the motion is granted as to both class three and class four claims, the WRC liquidation estate, after making payments and retaining the amounts requested herein, will have remaining claims-paying resources of approximately $5.93 million to pay ongoing administrative costs and remaining claims.

**Class Five Claims as to WRC**

19. Class five claims against the WRC liquidation estate total $81,681.43. The present motion seeks approval to pay the class five claims in that amount.

20. If the motion is granted as to class three, class four, and class five claims, the WRC liquidation estate, after making payments and retaining the amounts requested herein, will have remaining claims-paying resources of approximately $5.85 million to pay ongoing administrative costs and remaining claims.

**Summary of Requested Approvals**

21. The requested payments and retention are consistent with the directive of Wis. Stat. § 645.72(1), which calls for payment "as promptly as possible to . . . creditors in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims[.]"

22. The requested payments and retention, if approved, also help preserve claims-paying resources by reducing future administrative costs, thereby advancing the interests of claimants, policy holders, and the public.

23. For these reasons, the Liquidator hereby moves the Court for permission to:

a. Pay the remaining balance on the Liquidated Class 3 Claims;

b. Retain $2 million to cover the Remaining Class 3 Claims;

c. Pay the Remaining Class 3 Claims as and when they become liquidated;

d. Pay the net balance due on class four claims; and

e. Pay class five claims.

Dated this 27th day of October, 2026.

Respectfully submitted,

GODFREY & KAHN, S.C.

By: *Electronically signed by Anthony S. Baish*
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