

CAUSE NO. D-1-GV-08-000945

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

**SPECIAL DEPUTY RECEIVER'S APPLICATION FOR AUTHORITY TO REQUIRE
ELECTRONIC SERVICE OF PLEADINGS AND NOTICES**

To the Honorable District Court:

Donna J. Garrett, Special Deputy Receiver of Lincoln Memorial Life Insurance Company, Memorial Service Life Insurance Company and National Prearranged Services, Inc. (the "SDR") files her Application for Authority to Require Electronic Service of Pleadings and Notices.

I. INTRODUCTION

1. The SDR seeks Court authority to require the service of all pleadings and notices in this receivership by email by all parties in interest and any other filers because it will save the estate money and provide for timely service to parties at interest. She further requests authority to serve certain pleadings and notices, at her discretion, by any other means authorized by TEX. INS. CODE ANN. § 443.007, the Texas Rules of Civil Procedure or other order of this Court.

II. BACKGROUND

2. Lincoln Memorial Life Insurance Company, Memorial Service Life Insurance Company and National Prearranged Services, Inc. were placed in receivership in this proceeding on May 14, 2008. The Receiver designated Donna J. Garrett as SDR of Lincoln Memorial Life

Insurance Company, Memorial Service Life Insurance Company and National Prearranged Services, Inc. on May 15, 2008. The Court entered its *Order of Liquidation and for Order Approving Plan of Liquidation and Permanent Injunction* on September 22, 2008.

3. The Special Deputy Receiver is authorized to file this Application pursuant to TEX. INS. CODE ANN. § 443.151, which provides that the SDR is to conduct the business of the estate. The subject matter of this Application has been referred to the Special Master appointed in this proceeding in accordance with Paragraph III of the *Order of Reference To Master*.

III. RELIEF SOUGHT

4. TRCP 21a governs methods of service. It expressly states that, in addition to service by mail or fax, notice may be provided by “such other manner as the court in its discretion may direct.”

5. The SDR moves the Court to order all parties at interest and every other individual or entity filing any pleading, plea, motion, application to the court for an order, notices and any other matter required to be served in this case to serve them by email. The SDR proposes that it, through its undersigned counsel and the estate website, maintain email addresses for all parties at interest and parties requesting notice in this case. The SDR shall be responsible for providing a copy of this Court’s Order regarding service and the current list of email addresses to all parties upon their appearance.

6. To the extent that a party at interest, party requesting notice or any other individual or entity seeking to file in this Receivership Proceeding cannot provide service by email or deems it necessary to use an alternative method of service, it may file a motion for leave of court seeking to use some other authorized method of service at the time it files the document with the Court.

7. Email service will save the estate and all parties’ money on postage. It should provide

for the timelier and efficient delivery of items and enable parties to be sure of their receipt.

8. Pursuant to TEX. INS. CODE ANN. § 443.007, the SDR may periodically require that any person or entity currently on the Service List for these administratively consolidated estates confirm that they desire to remain on the Service List and to provide an email address for future service.

IV. NOTICE

9. The SDR has served this application to all known parties at interest by regular mail, email, fax, hand delivery and/or overnight delivery.

V. OFFER OF PROOF AND VERIFICATION

10. This Application is as required by the Texas Rules of Civil Procedure by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Donna J. Garrett, Special Deputy Receiver of Lincoln Memorial Life Insurance Company, Memorial Service Life Insurance Company and National Prearranged Services, Inc.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Special Deputy Receiver respectfully requests that this Court:

1. grant this Application;
2. order that all parties at interest and parties requesting notice provide to the undersigned counsel to the SDR its email address;
3. order that all parties at interest and parties requesting notice serve all pleadings, pleas, motions, applications to the court for an order, notices and any other matter required to be served by email;
4. order that the SDR shall create and maintain a current list of email addresses of all

parties and provide the list and a copy of this Order to all parties in interest and parties requesting notice by posting it on the estate website at www.LincolnMemorialLife.com; and

5. grant the SDR such other and further relief to which it may be justly entitled.

Respectfully submitted,

By: /s/Christopher Fuller
Christopher Fuller
Attorney in Charge
Texas State Bar No. 07515500
4612 Ridge Oak Drive
Austin, Texas 78731
Telephone: (512) 470-9544
Fax: (512) 374-0957
cfuller@fullerlaw.org

**ATTORNEYS FOR DONNA J. GARRETT,
SPECIAL DEPUTY RECEIVER OF
MEMORIAL SERVICE LIFE INSURANCE
COMPANY, LINCOLN MEMORIAL LIFE
INSURANCE COMPANY AND NATIONAL
PREARRANGED SERVICES, INC.**

CERTIFICATE OF SERVICE

I certify that on October 6, 2008, a true and correct copy of this Application was served pursuant to the Order of Reference, the Texas Rules of Civil Procedure, and TEX. INS. CODE ANN. SEC. 443.007 (d) on the following.

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: mkeller@winstead.com
Mary Keller
Winstead PC 401 Congress Avenue, Suite
2100
Austin, TX 78701

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

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

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

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

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

Via Email: tbutler@wdkclaw.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

/s/Christopher Fuller
Christopher Fuller

APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Amended Order of Reference to Master entered by the District Court in this cause, the *Application for Authority to Require Electronic Service of Pleadings and Notices* is hereby set for written submission before the Special Master, Tom Collins, on October 27, 2008.

The Special Master has asked that the following rules be provided you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by such date on:
 - (a) The Special Master's Docket Clerk, Ms. Jean Sustaita, Texas Department of Insurance, **(Hand Delivery)** 333 Guadalupe, Hobby Tower 3, Room 550, Austin, Texas; or **(Mail To)** P. O. Box 149104, Austin, Texas 78714-9104
 - (b) All interested parties, including the undersigned counsel, Christopher Fuller at cfuller@fullerlaw.org, and those listed on the Applicant's Certificate of Service.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
4. If a matter is set for submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the master's docket clerk [(512) 463-6450] to obtain an oral hearing, unless the master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all interested parties, including those listed on the Applicant's Certificate of Service.
5. Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by the Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/Christopher Fuller
Christopher Fuller

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MEMORIAL LIFE INSURANCE	§	
COMPANY, AND NATIONAL	§	
PREARRANGED SERVICES, INC.	§	
Defendants.	§	250 TH JUDICIAL DISTRICT

ORDER GRANTING SPECIAL DEPUTY RECEIVER’S APPLICATION TO REQUIRE ELECTRONIC SERVICE OF PLEADINGS AND NOTICES

The Court considered the SDR’s Application to Require Electronic Service of Pleadings and Notices (the “Application”). Having considered the Application, the Court finds that the Application is meritorious, in the best interests of the receivership estate and should be granted.

IT IS ORDERED, ADJUDGED AND DECREED that the Application is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR and all other parties at interest and parties requesting notice shall file any pleading, plea, motion, applications, notices and all other matters requiring service by email;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR shall create and maintain a current list of email addresses of all parties and provide the list and a copy of this Order to all parties in interest and parties requesting notice by posting it on the estate website at www.LincolnMemorialLife.com;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties at

interest and parties requesting notice shall provide to the SDR's counsel his email address at *cfuller@fullerlaw.org*; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR may, at her discretion, serve any pleading or notice by any other means authorized by TEX. INS. CODE ANN. § 443.007, the Texas Rules of Civil Procedure or other order of this Court without further order of this court.

Signed on _____

JUDGE PRESIDING