

Global Liberty Ins. Co. of N.Y. v None

2023 NY Slip Op 30479(U)

February 15, 2023

Supreme Court, New York County

Docket Number: Index No. 452178/2022

Judge: Lyle E. Frank

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

-----X

GLOBAL LIBERTY INSURANCE COMPANY OF NEW YORK,

Plaintiff,

- v -

NONE,

Defendant.

-----X

INDEX NO. 452178/2022

MOTION DATE N/A

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 27, 28, 29, 30, 33 were read on this motion to/for CHANGE VENUE

Upon the January 9, 2023 affirmation of Holly Sutton, an attorney with the New York Liquidation Bureau (the "NYLB"), which serves as the staff of Adrienne A. Harris, Superintendent of Financial Services of the State of New York, in her capacity as liquidator ("Liquidator") of Global Liberty Insurance Company of New York ("Global Liberty") and administrator ("Administrator") of the New York Property/Casualty Insurance Security Fund and the New York Public Motor Vehicle Liability Security Fund (together, the "Security Funds") in connection with the liquidation proceeding of Global Liberty, and its attachments, and upon all other papers previously submitted and all proceedings heretofore had herein;

NOW, on motion of the Liquidator, and after due deliberation having been had thereon, it is

ORDERED, that the application is granted; and it is further ordered that:

1. The Adjudication Procedures for (i) claims under Global Liberty policies that are covered by the Security Funds ("Fund Covered Claims") and (ii) claims against the Global Liberty estate that are not covered by the Security Funds ("Estate Claims") are approved.

2. The Adjudication Procedure for Fund Covered Claims is as follows:

A. This adjudication procedure shall apply to disputes arising out of the issuance to a claimant of a Denial Letter, Denial of Claim Form¹, Notice of Return Premium, Notice of Return Premium with Financing Agreement, or Final Determination Letter.

B. References to “claimant” shall mean those individuals or entities with the legal standing to maintain a claim under an insurance policy issued by Global Liberty. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or expand any right of an individual or entity under applicable law or any provision of an insurance policy or contract.

C. Denial Letter, Denial of Claim Form, Notice of Return Premium and Notice of Return Premium with Financing Agreement:

i. The Administrator shall serve a Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement on each claimant whose coverage for a claim is denied in whole or in part or who is determined to be due a return premium. Service will be made by First-Class Mail, or such other form of communication as may have been agreed to by the Administrator and the claimant in writing, to the claimant’s last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant’s behalf, to the address of such representative. The Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Administrator.

¹ The Denial of Claim Form applies to No-Fault claims only. The first and second page of the Denial of Claim Form is completed by the Administrator prior to being mailed to the claimant. The third and fourth page of the Denial of Claim Form is filled out by the claimant if the claimant chooses to object to the denial of coverage.

ii. The Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement shall advise each claimant of the following:

a. No further action by the claimant is required if the claimant accepts the Administrator's determination as set forth in the Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement;

b. The claimant has the right to object to the Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement and can do so by serving a written objection on the Administrator within sixty (60) days of the date of the Denial Letter, Denial of Claim Form, Notice of Return Premium or Notice of Return Premium with Financing Agreement as set forth in the Denial Letter, Denial of Claim Form, Notice of Return Premium and Notice of Return Premium with Financing Agreement;

c. If the claimant makes a timely written objection, the Administrator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, the Administrator will contact the claimant and the Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;

d. The Referee thereafter will hear and report on the validity of the claimant's objections;
and

e. Either the claimant or the Administrator may petition the court supervising the Global Liberty liquidation proceeding (the "Supervising Court"), on notice, for an order confirming or denying the Referee's report.

D. Final Determination Letter.

i. The Administrator shall serve a Final Determination Letter on each claimant where the Administrator has determined there is coverage for the claim, but the Administrator and claimant

have, in the reasonable opinion of the Administrator, reached an impasse as to the value of such claim. Service of the Final Determination Letter will be made by First-Class Mail, or such other form of communication as may have been agreed to by the Administrator and the claimant in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Final Determination Letter may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Administrator.

ii. The Final Determination Letter advises each claimant of the following:

a. If the claimant accepts the Administrator's valuation of the claim as set forth in the Final Determination Letter, the claimant may execute the enclosed settlement documents, including a release of further rights pertaining to the adjudicated claim, and return such documents to the Administrator;

b. If the claimant accepts the Administrator's valuation of the claim as set forth in the Final Determination Letter and returns the settlement documents, application will be made to the Supervising Court to allow the claim in the amount specified in the Final Determination Letter or, in accordance with Insurance Law §§ 7428(b) and 7602(g), if the amount of the claim or the compromise between the Administrator's and the claimant's valuations of the claim does not exceed \$25,000, application will be made to the Superintendent, to allow the claim in the amount specified in the Final Determination Letter and, upon such allowance, payment will be made as soon as reasonably practical;

c. The claimant has the right to object to the Final Determination Letter, and may do so by serving a written objection on the Administrator within sixty (60) days of the date of the Final Determination Letter, as set forth in the Final Determination Letter;

d. If the claimant makes a timely written objection, the Administrator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, the Administrator will contact the claimant and the Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;

e. The Referee thereafter will hear and report on the validity of the claimant's objections;

f. Either the claimant or the Administrator may petition the Supervising Court, on notice, for an order confirming or denying the Referee's report; and

g. If the claimant fails to object and fails to provide fully executed settlement documents within sixty (60) days from the date of the Final Determination Letter, the Administrator may deem the claim abandoned and may seek an ex parte order of the Supervising Court approving the denial of the claim.

E. In the event that a claimant requests a hearing, the Administrator's staff will contact the claimant in writing at the address set forth on the Denial Letter, Denial of Claim Form, Notice of Return Premium, Notice of Return Premium with Financing Agreement or Final Determination Letter (or such other address as the claimant has provided to the Administrator in writing for the purpose of providing communications), as applicable, to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to attend such conference, then the claimant's objection is forfeited and the Denial Letter, Denial of Claim Form, Notice of Return Premium, Notice of Return Premium with Financing Agreement or Final Determination Letter is deemed accepted.

F. In the event that a claimant fails to object to a Denial Letter, Denial of Claim Form, Notice of Return Premium, Notice of Return Premium with Financing Agreement or Final

Determination Letter within the sixty (60) day period, the claim shall either be denied and subject to approval by the Supervising Court or the Superintendent shall allow the claim in the amount stated in the Final Determination Letter and seek the Supervising Court's approval of the claim in the amount stated in the Final Determination Letter in accordance with Insurance Law §§ 7428(b) and 7602(g).

G. If a claimant fails to take the steps necessary to have its objection heard, the Referee may issue a dismissal of the objection and deem the Denial Letter, Denial of Claim Form, Notice of Return Premium, Notice of Return Premium with Financing Agreement or Final Determination Letter to be accepted.

H. The Administrator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement or settlement compromise amount exceeding \$25,000 is subject to approval by the Supervising Court, in accordance with Insurance Law §§ 7428(b) and 7602(g).

I. In the event the Administrator fails to timely meet any of the time periods set for mailing or delivering a notice required by order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the adjudication procedure until it receives the required notice.

3. The Adjudication Procedure for Estate Claims is as follows:

A. This adjudication procedure shall apply to disputes arising out of the issuance of a Classification Letter and/or an NOD to a claimant.

B. References to "claimant" shall mean those individuals or entities with the legal standing to maintain a claim against Global Liberty that is not covered by the Security Funds. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or

expand any right of an individual or entity under applicable law or any provision of an insurance policy or contract.

C. The Liquidator shall serve either a Classification Letter or an NOD, or both, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the liquidation proceeding. Service of the Classification Letter and/or NOD will be made by First-Class Mail, or such other form of communication as may have been agreed to by the Liquidator and the claimant in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Classification Letter and NOD may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Liquidator.

D. The Classification Letter shall advise each claimant of the following:

- i. The Liquidator's determination of the specific class of claim under Insurance Law § 7434 in which the claim falls;
- ii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
- iii. The claimant has the right to object to the Classification Letter, and may do so by serving a written objection on the Liquidator within sixty (60) days of the date of the Classification Letter, as set forth in the Classification Letter;
- iv. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, the Liquidator will contact the claimant and the Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;

v. The Referee thereafter will hear and report on the validity of the claimant's objections;
and

vi. Either the claimant or the Liquidator may move before the Supervising Court, on notice, for an order confirming or denying the Referee's report.

E. The NOD shall advise each claimant of the following:

i. The Liquidator's determination of the specific class of claim under Insurance Law § 7434 in which the claim falls;

ii. The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;

iii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;

iv. The claimant has the right to object to the NOD, and may do so by serving a written objection on the Liquidator within sixty (60) days of the date of the NOD, as set forth in the NOD;

v. Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to the Supervising Court for approval and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law § 7434, will be fully and finally determined; vi. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, the Liquidator will contact the claimant and the Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;

vii. The Referee thereafter will hear and report on the validity of the claimant's objections;
and

viii. Either the claimant or the Liquidator may move before the Supervising Court, on notice, for an order either confirming or denying the Referee's report.

F. The Liquidator shall move, ex-parte, not before seventy-five (75) days after the date of the NOD, or within a lesser period if agreed upon by the claimant, for an order approving the Liquidator's recommendations for adjudication of all claims allowed in an amount exceeding \$25,000 for which no objections are timely received. If a timely objection is not received to an NOD that disallows a claim in total or allows the claim in an amount that is less than \$25,000, then the Liquidator's NOD to which no timely objection was received shall have the same effect as if a court order allowing or disallowing the claim has been obtained. N.Y. Insurance Law § 7428 (2013).

G. In the event that a claimant requests a hearing, the Liquidator will contact the claimant in writing at the address set forth on the Classification Letter or NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such Classification Letter or NOD) to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the Classification Letter or NOD is forfeited and the Classification Letter or NOD is deemed accepted.

H. If a claimant fails to take the steps necessary to have its objection heard, the Referee may issue a dismissal of the objection and deem the Classification Letter or NOD to be accepted.

I. The Liquidator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement or settlement compromise exceeding \$25,000 is subject to approval by the Supervising Court, in accordance with Insurance Law §§ 7428(b) and 7602(g).

J. In the event the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the adjudication procedure until it receives the required notice.

4. Disputed claims and objections filed by claimants in the within proceeding which have not been settled or compromised are referred to:

NAME: Helene E. Blank, Esq.

ADDRESS: 387 New Lots Avenue, Brooklyn, New York 11207

PHONE NO.: 718 498 3333

as Referee to hear and take evidence on any issues or objections raised by holders of Fund Covered Claims or Estate Claims and report the Referee's findings to the Supervising Court. Either the claimant or the Administrator/Liquidator may petition the Supervising Court, on notice, for an order confirming or denying the Referee's report.

5. The Referee shall be paid a fee based on an hourly rate of \$200 as a loss adjustment expense of (i) the Global Liberty estate for Estate Claims or (ii) the Security Funds for Fund Covered Claims.

2/15/2023

DATE


LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE