

CAUSE NO. D-1-GN-23-001549

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT OF
v.		TRAVIS COUNTY, TEXAS
FRIDAY HEALTH INSURANCE COMPANY, INC. <i>Defendant.</i>		345th JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S APPLICATION FOR APPROVAL OF  
CLAIM FILING DEADLINE, NOTICE TO CREDITORS, AND PROCEDURES  
FOR PROCESSING CLAIMS**

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., the Special Deputy Receiver (“SDR”) of Friday Health Insurance Company, Inc. (“FHIC”), files this *Application for Approval of Claim Filing Deadline, Notice to Creditors, and Procedures for Processing Claims* (the “Application”).

**I. INTRODUCTION**

1.1 This Application is filed pursuant to TEX. INS. CODE (the “Code”) § 443.155. The SDR asks the Court to set the deadline for creditors to file claims to be nine (9) months after the entry of the order granting this Application. In addition, the SDR requests that this Court approve how the SDR will provide notice of FHIC’s liquidation and claims filing deadline to potential creditors. The SDR submits for approval the proposed Proof of Claim (“POC”) form and instructions that creditors will use to file claims and also requests that the Court waive the requirement to file a proof of claim for a certain identified class of claimants so that those claims are deemed to have been filed and may be determined by the SDR as if filed. Furthermore, the SDR asks the Court to approve how the SDR will receive and process claims.

## II. BACKGROUND

2.1 On March 23, 2023, the Court entered an *Agreed Order Appointing Liquidator, Permanent Injunction, and Notice of Automatic Stay* putting FHIC into liquidation. The Court appointed the Texas Commissioner of Insurance (the “Commissioner”) as the Liquidator of FHIC. Effective March 23, 2024, the Liquidator appointed CANTILO & BENNETT, L.L.P. as the SDR of FHIC.

2.2 The SDR is authorized to file this Application pursuant to § 443.155 of the Code, which provides the requirements for notice to creditors and others, and § 443.008(a) of the Code, which authorizes this Court to issue any order necessary or appropriate to carry out the provisions of the Texas Insurer Receivership Act (“TIRA”). On March 23, 2023, the Court entered its *Agreed Order of Reference to Master*, appointing Mr. Tom Collins to act as the Master in this receivership (the “Master”). This Application has been referred to the Master in accordance with Paragraph III of that order.

## III. JURISDICTION AND STATUTORY AUTHORITY

3.1 Section 443.155 of the Code requires the Liquidator to give notice of the liquidation order as specified therein, unless this Court otherwise directs. The notice must state the deadline for filing claims (“claim filing deadline”), the requirements for the POC, and include any other information the Liquidator or this Court deems appropriate.

3.2 In accordance with § 443.005 of the Code, this Court has exclusive subject matter jurisdiction over this Application. This Court has personal jurisdiction over parties asserting claims (“Claimants”) directly against FHIC and/or property owned by FHIC pursuant to § 443.005 of the Code.

3.3 Pursuant to § 443.005(g) of the Code, exclusive and mandatory venue for this proceeding is in Travis County, Texas.

## IV. RELIEF SOUGHT

4.1 The SDR requests that the Court set a nine-month period after the date of entry of the order granting this Application for the filing of claims and waive the requirement to file a proof of claim to a certain class of claimants.

4.2 The vast majority of FHIC's policies, often referred to as "plans," were issued as part of the insurance market created by the federal Affordable Care Act (the "ACA"). Policies issued under the ACA ("ACA Policies") are issued on a calendar year basis – providing coverage from January 1 to December 31 of each year. All of FHIC's ACA Policies expired on or before December 31, 2022. FHIC processed and paid claims up until March 17, 2023. FHIC also insured several small employer group health plans in 2023 covering a total of fewer than 50 insureds. All of the employer plans terminated by June 30, 2023.

4.3 Pursuant to the Texas Life and Health Insurance Guaranty Association Act (the "TLHIGA Act"),<sup>1</sup> the Texas Life and Health Insurance Guaranty Association ("TLHIGA") is obligated to pay certain claims covered by policies issued by FHIC. *See* TEX. INS. CODE § 463.201, et seq. TLHIGA's obligation to pay such claims is not dependent upon the filing of a POC with the SDR. *See id.* Pursuant to TIRA, TLHIGA is entitled to Class 1 and Class 2 claims against the FHIC estate for, respectively, the costs it incurs and the claim payments it makes in connection with FHIC policies. *See* TEX. INS. CODE § 443.301. TLHIGA's liability for covered claims, however, is capped at \$500,000. *See* TEX. INS. CODE § 463.204. FHIC's records indicate that there will be a few covered claims that will exceed TLHIGA's \$500,000 maximum per claim payment. Before receivership, FHIC separately tracked large, incurred claims, including claims that could exceed \$500,000, for reinsurance reporting and other purposes. Such tracking has continued since

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<sup>1</sup> TEX. INS. CODE § 463.001 et seq.

liquidation, and TLHIGA has committed to fully processing all claims submitted to it even when the total claim exceeds the \$500,000 cap. As more fully described below, the SDR requests that the court waive the requirement to file a claim for all such “over-the-cap” claims (“OTC Claims”) to ensure that all such claims are properly and timely reported to reinsurers, to avoid the need for Claimants to file claims twice (once with TLHIGA and once with the SDR), and to take advantage of the claims processing already performed by TLHIGA. As noted above, the vast majority of FHIC’s policies expired by December 31, 2023. Given the nature of health insurance, most of the claims for FHIC plan coverage will have already been filed and processed by the filing date of this Application.

**A. NOTICE OF LIQUIDATION AND CLAIM FILING DEADLINE**

4.4 Section 443.155 of the Code requires the SDR to give notice to potential Claimants of the fact that FHIC is in liquidation, and of the deadline and manner of filing claims. The form of the proposed notice, which includes instructions on how and when to file a POC, is attached as **Exhibit 1** (the “Notice”). In addition, the Code requires the SDR to publish a notice of liquidation and the claim filing deadline in a newspaper of general circulation in the county in which FHIC has its principal place of business, and in any other locations the Liquidator deems appropriate. The form of the newspaper notice is attached as **Exhibit 2**.

**1. Statutory Requirements for Notice of Liquidation**

4.5 Section 443.155 of the Code sets out the specific requirements for a notice of liquidation. This section describes the categories of persons who must receive notice, the means for providing notice, and the contents of the notice. Section 443.155 (a) of the Code requires that, unless this Court directs otherwise, notice shall be given:

- (1) by first class mail or electronic communication . . . to:
  - (A) any guaranty association that is or may become obligated as

a result of the liquidation and any national association of guaranty associations;

(B) all the insurer's agents, brokers, or producers of record with current appointments or current licenses to represent the insurer and all other agents, brokers, or producers as the liquidator deems appropriate at their last known address; and

(C) all persons or entities known or reasonably expected to have claims against the insurer, at their last known address as indicated by the records of the insurer, and all state and federal agencies with an interest in the proceedings; and

(2) by publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in any other locations as the liquidator deems appropriate.

## **2. First Class Mail or Electronic Notice to Identifiable Potential Claimants**

4.6 The SDR proposes to give notice of FHIC's liquidation and claim filing deadline by first class mail or e-mail to potential Claimants listed below:

- First-party and third-party claimants, beneficiaries, and their loss payees and/or their counsel who currently have unresolved claims and/or lawsuits against FHIC or claims for unearned premium under FHIC policies as reflected in FHIC's business records;
- All FHIC plan participants having policies that were in force as of January 1, 2022 until December 31, 2022;
- All FHIC employer plan participants having policies that were in force as of January 1, 2022 until July 1, 2023;
- TLHIGA and the National Organization of Life and Health Insurance Guaranty Associations ("NOHLGA");
- All former independent agents and/or brokers of FHIC policies;
- All vendors (including service providers), identified in FHIC's accounts payable files from March 23, 2021 (2 years before liquidation) to present;
- FHIC's former officers and directors going back to January 1, 2021, its parent company, and affiliated entities;

- All financial institutions which held FHIC accounts, whose identity is reflected in the estate's books and records;
- All reinsurers and entities reinsured by FHIC;
- Sharon Williams, United States Department of Justice;
- The U.S. Department of Treasury through the Internal Revenue Service;
- Dr. Ellen Montz, Deputy Administrator and Director of the Center for Consumer Information & Insurance Oversight, Centers for Medicare and Medicaid Services; and
- To the extent not already described above, all parties who have requested, in writing or by e-mail, an opportunity to file a claim.

4.7 As required by law, the SDR intends to use the names and addresses found in FHIC's business records to serve the Notice, unless a different address has been provided in writing to the SDR. The SDR requests that this Court approve the manner of providing notice and the list of recipients as described above. Section 443.155(d) of the Code provides that the Liquidator has no duty to locate any Claimants if no address for them is found in the insurer's records, or if mail delivered to the address shown in the insurer's records is returned. In this event, a certification that a notice with postage was deposited in the mail, or electronically transmitted, is prima facie evidence of mailing and receipt. The SDR further requests that this Court find that certification of the mailing or e-mailing of the Notice in such manner in compliance with Section 443.155(d) constitutes prima facie evidence of receipt by the recipient to whom the Notice is addressed.

### **3. Notice by Publication**

4.8 Section 443.155(a)(2) requires publication of notice of the liquidation order in a newspaper of general circulation in the county in which the insurer has its principal place of business, and in any other locations the Liquidator deems appropriate. FHIC was licensed to sell insurance only in Texas. The SDR proposes to publish notice of the liquidation, the claim filing deadline, and procedures at least once in newspapers of general circulation in Denver, Alamosa,

Houston, Dallas, San Antonio, Austin, El Paso, and Brownsville. The proposed form of publication notice is attached as Exhibit 2. The SDR requests that this Court enter an order approving notice in a form substantially similar to Exhibit 2 and authorizing the SDR to notice Claimants in this manner.

4.9 Section 443.155(d) of the Code provides that if mail is returned because of an inability to deliver it to the address shown in the insurer's records, notice of publication as required by Section 443.155(a)(2) is sufficient notice. The SDR requests the Court enter an order deeming that such notice by publication to unknown Claimants and to parties with changed addresses is sufficient to comply with the notice provisions of the TIRA.

#### **4. Internet Notice**

4.10 The SDR will post all notices, claim filing information, POC forms and other relevant information on its web site at [www.fridayhealthtxsdr.com](http://www.fridayhealthtxsdr.com). The SDR will also ask the TLHIGA to post the POC filing information on its web site.

#### **5. Deemed Claims**

4.11 The law allows the SDR to request authority from the Court to deem certain categories of claims as timely filed. If the SDR deems a claim, a POC does not have to be filed by the Claimant, and the deemed claim constitutes a claim against the estate as if filed by the Claimant. Section 443.251(a) of the Code provides that:

The receivership court, only upon application of the liquidator, may allow alternative procedures and requirements for the filing of proofs of claim or for allowing or proving claims. Upon application, if the receivership court dispenses with the requirements of filing a proof of claim by a person or a class or group of persons, a proof of claim for the person, class, or group is deemed to have been filed for all purposes, except that the receivership court's waiver of proof of claim requirements does not impact guaranty association proof of claim filing requirements or coverage determinations to the extent the guaranty fund statute or filing requirements are inconsistent with the receivership court's waiver of proof.

4.12 The SDR requests authority to dispense with the requirements for Claimants with OTC Claims that are covered and processed by TLHIGA, to file POCs with the SDR. TLHIGA pays a maximum of \$500,000 on any individual covered claim. Therefore, some insured claims against FHIC will not be fully covered by TLHIGA. In the normal course, those Claimants would be required to file a POC with the SDR even though they already pursued and obtained payment on the claim from TLHIGA. To avoid confusion and ensure that such Claimants receive an approved claim and distribution from the assets of the FHIC receivership estate to which they are entitled, the SDR requests that the Court waive the requirement to file a POC for OTC claims so that those claims are deemed to have been filed. If the Court grants the request the SDR will treat these claims as if filed by the Claimants and will adjudicate and pay the deemed claims in accordance with the process outlined in Chapter 443 for timely filed claims. Furthermore, such claims will be subject to the requirement that the Claimant waive any right to pursue the FHIC insured for payment.

## **6. Proof of Claim Form**

4.13 Section 443.252 of the Code requires that a POC contain the items described therein, and any other information required by the Liquidator. The Liquidator is also authorized to require that a prescribed POC form be used. The proposed POC form is attached as **Exhibit 3**. The SDR requests the Court to approve the form and authorize the SDR to use it or a form that is substantially similar.

### **B. CLAIM PROCESSING**

#### **1. Claim Filing Deadline**

4.14 Section 443.251 of the Code provides that the claim filing deadline may not be later than 18 months after entry of the liquidation order, unless extended by this Court. The SDR



requests that this Court set the claims filing deadline to be nine (9) months after the date of entry of the order granting this Application. The SDR further asks that the Court require that all POCs be postmarked or received at the address designated by the SDR on or before 11:59 p.m. Central Time on that date. If the deadline falls on a weekend day or federal holiday, the SDR requests that all POCs be received at the address designated by the SDR on or before 11:59 p.m. Central Time on the next business day in order to be considered timely. If the SDR receives a POC that may be paid by TLHIGA, it will send that POC to the association. The SDR will process any part of those claims to the extent they are not paid by TLHIGA.

## **2. Guaranty Association**

4.15 TLHIGA will be paying claims on FHIC policies and will have a claim against the receivership estate for certain expenses and claim payments. Section 443.252(d) of the Code provides that TLHIGA may submit a single POC combining all claims and related administrative expenses. The SDR proposes that TLHIGA be authorized to submit a single POC combining all claims and related administrative expenses, and to supplement the POC as needed.

## **3. Processing Claims**

4.16 The SDR will process POCs under the provisions of the Insurer Receivership Act. The statute requires the SDR to pay each class of creditors in full or retain adequate funds for such payment before paying any other class of creditors. TEX. INS. CODE § 443.301(a).

## **4. Processing Class 1, Class 2, and Class 3 Claims**

4.17 The SDR proposes to adjudicate all claims with a priority of Class 1, Class 2, and Class 3 under § 443.301 (a) and (b) of the Code in the manner specified in § 443.253 of the Code.

## **5. Class 4 and Lower Priority Class Claims**

4.18 At this time, the SDR estimates that the estate will be able to pay all Class 1 and Class 2 claims in full and make a partial distribution on Class 3 claims. It would be a waste of money to fully process POCs for Claimants who, ultimately, will not receive a payment. Therefore, to preserve the assets of this estate, the SDR proposes that it not be required to adjudicate the merits of claims with a priority of Class 4 or lower at this time. Section 443.253(k) of the Code provides that:

[t]he liquidator is not required to process claims for any class until it appears reasonably likely that property will be available for a distribution to that class. If there are insufficient assets to justify processing all claims for any class listed in § 443.301, the liquidator shall report the facts to the receivership court and make such recommendations as may be appropriate for handling the remainder of the claims.

Until the SDR reasonably believes that there may be sufficient assets to pay all Class 3 claims in full, the SDR will classify all claims with a priority of Class 4 or lower, notify the Claimant of the classification, and take no further action. Such notification will be a final adjudication of the classification of the claim subject to the Claimant's right to object to the classification. If the SDR later determines that sufficient assets exist to justify processing claims with a priority lower than Class 3, the SDR will adjudicate the merits of the claim and notify the Claimant of its determination.

## **6. Late Claims**

4.19 The SDR expects that some POCs might be filed after the claim filing deadline. If a Claimant demonstrates that grounds exist to treat a late filed POC as timely filed under Section 443.251(b) of the Code, and the SDR determines that the payment of the claim will not prejudice the orderly administration of the liquidation, the POC may be accepted as a timely filed claim. The SDR will require an affidavit and other evidence to prove the facts specified by Section 443.251(b).

If a claim is filed after the deadline and it does not meet the requirements discussed above, the claim shall be classified as a Class 8 claim, and the SDR shall not process it unless it appears that there is enough money to pay all Class 1 through Class 7 claims.

## **7. Waiver and Release of Claims against FHIC Insureds**

4.20 Section 443.256(h) of the Code provides that if someone has a claim against an FHIC insured and files a POC with the SDR, that Claimant is deemed to have waived and released the claim against the FHIC insured. The law requires that a statement informing the Claimant of the waiver and release be included on the POC form. The SDR's proposed POC form (Exhibit 3) complies with the requirements in § 443.256(h)(4) of the Code.

4.21 The SDR and TLHIGA are tracking the known and potential OTC Claims. The SDR will provide the Claimants with OTC Claims individual notice of this application by mail. The proposed notice is attached as **Exhibit 4**. The notice informs Claimants with OTC Claims that this application requests the Court deem those claims timely filed, that such relief will effect a waiver and/or release of Claimants' OTC Claims as against the FHIC insured, and includes instructions on how to object to this application if those Claimants choose.

4.22 The SDR moves the Court to find that OTC Claims that have been deemed filed by the Court after notice and opportunity for objection are also subject to the waiver and release. TLHIGA will pay all covered claims up to \$500,000. The SDR estimates that the FHIC estate has more than sufficient assets to pay all Class 2 claims in full including those claims that exceed TLHIGA's \$500,000 maximum coverage. Legitimate claims will be paid in full, albeit with some delay, without the expense of litigation.

## **8. Determination of Claims**

4.23 Section 443.257 of the Code provides that the SDR shall request a hearing before

this Court if a Claimant objects to the SDR's determination of a claim, and the SDR does not alter the determination. In accordance with the Order of Reference to Master, the objection may be heard by the Master. Some information provided by a Claimant with a POC may include sensitive data as defined in Rule 21c of the Texas Rules of Civil Procedure, or other information protected by privacy laws. If the SDR determines that documents containing such information must be filed in connection with a disputed claim, the SDR shall either redact such information from the documents or submit the documents to the Master or this Court under seal for in camera inspection in accordance with § 443.007(c) of the Code. The procedures in this section for sealing documents differ from the requirements of Rule 76a of the Texas Rules of Civil Procedure. As § 443.002 of the Code mandates that the Insurer Receivership Act prevails in the event of a conflict with any other law, the process of sealing documents filed in this proceeding shall be conducted under § 443.007(c). The SDR moves the Court to approve these procedures.

4.24 Section 443.258 of the Code provides that the Liquidator shall present reports of claims that have been settled or determined to this Court for approval. A report must include information "identifying the claim" and the amount and priority class of the claim. As no other information is required in this report, the SDR may determine whether any additional information regarding an individual, such as a name and addresses, will be included in the report.

## **V. NOTICE**

5.1 The SDR has served this Application by e-mail to everyone listed on the attached Certificate of Service. Additionally, the SDR has sent notice by mail to all potential Claimants who may have claims in excess of TLHIGA's statutory cap. Certain state and federal agencies were served by mail or overnight delivery.

## **VI. OFFER OF PROOF AND VERIFICATION**

6.1 This Application is verified by the affidavit and certification of Susan E. Salch, designated representative of CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of FHIC, pursuant to § 443.017(b) of the Code.

## **VII. NOTICE OF ELECTRONIC SERVICE REQUIREMENT**

7.1 Any party who responds to this Application must file their response with the Court and send it by e-mail to the SDR's attorney and all parties shown in the attached Certificate of Service.

## **PRAYER**

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Friday Health Insurance Company, Inc., prays that this Court:

1. Grant this Application in full;
2. Approve the notices and POC forms as described in this Application, and find that they comply with the requirements of § 443.155 of the Code and due process;
3. Order that the POC filing deadline is nine (9) months after the date of entry of the order granting this Application;
4. Order that if any deadline set forth in this Order falls on a weekend day or federal holiday, all POCs must be postmarked or received at the address designated by the SDR on or before 11:59 p.m. Central Time on the next business day in order to be considered timely.
5. Approve the SDR's proposed claim processing procedures;
6. Waive the requirement to file a proof of claim for OTC claims so that those claims are deemed to have been filed, including a release of the insured as required by a filed claim and being subject to adjudication and payment by the SDR;
7. Authorize the SDR to enter into such contracts and agreements as may be necessary or expedient to carry out the actions approved herein;

8. Order that Claimants who file, or who are deemed to have filed, a POC with the SDR shall be deemed to have released and waived any claim against FHIC insureds under § 443.256(h) of the Code;
9. Order that, if the SDR files a disputed claims proceeding under § 443.257 of the Code and the SDR determines that documents including sensitive data as defined in Rule 21c of the Texas Rules of Civil Procedure must be filed in connection with a disputed claim, the SDR shall either redact such information from the documents, or submit the documents to the Special Master or this Court under seal for in camera inspection in accordance with § 443.007(c) of the Code; and
10. Grant the SDR such other and further relief to which it may be justly entitled.

Respectfully submitted,

/s/ Greg Pierce  
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**Attorneys for CANTILO & BENNETT, LLP,  
Special Deputy Receiver of  
Friday Health Insurance Company, Inc.**

## APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Agreed Order of Reference to Master entered by the District Court in this cause, the *Special Deputy Receiver's Application for Approval of Claim Filing Deadline, Notice to Creditors, and Procedures for Processing Claims* is hereby set for written submission before the Master, Tom Collins, on **October 16, 2023**.

The 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 e-mail by such date on:
  - (a) The Master's Docket Clerk, at [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov);
  - (b) The undersigned counsel, Greg Pierce at [gpierce@gpiercelaw.com](mailto:gpierce@gpiercelaw.com); and
  - (c) All interested parties, including those listed on the SDR's Certificate of Service.
3. The objecting party shall coordinate with the SDR's counsel and the Docket Clerk [(512) 676-6915] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. 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.
5. **Please note that if an objection is not filed as described in the Notice of Submission, the Master may consider the Application without a hearing.**
6. **Failure to file timely a written objection before the Master constitutes a waiver of the right to object to the Master's recommendation to the District Court.**
7. 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/ Greg Pierce  
Gregory A. Pierce

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the *Application for Approval of Claim Filing Deadline, Guidelines for Providing Notice, and Procedures for Processing Claims* was sent in accordance with TEX. INS. CODE § 443.007(d) on September 29, 2023 to:

*Via Email:* [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov)

Tom Collins, Receivership Master  
c/o Special Master's Clerk  
RLO MC-FRD  
PO Box 12030  
Austin, TX 78711-2030

*Via e-Service:* [Brian.Riewe@tdi.texas.gov](mailto:Brian.Riewe@tdi.texas.gov)

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1717 Main Street, Ste 5400  
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*Counsel for Molina Healthcare, Inc*

Via Email: [MTurner@crowell.com](mailto:MTurner@crowell.com)  
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1001 Pennsylvania Avenue NW  
Washington, DC 20004

Via Email: [Amy\\_Condo@bcbsil.com](mailto:Amy_Condo@bcbsil.com)  
Amy Pinkerman Condo  
HEALTH CARE SERVICE CORPORATION  
300 E. Randolph Street  
Chicago, IL 60601  
*Counsel for Health Care Service Corporation  
Blue Cross and Blue Shield of Illinois, Montana,  
New Mexico, Oklahoma, and Texas*

/s/ Greg Pierce  
Gregory A. Pierce

**SPECIAL DEPUTY RECEIVER'S VERIFICATION AND CERTIFICATION  
PURSUANT TO TEX. INS.CODE ANN. §443.017(b)**

**AFFIDAVIT OF SUSAN E. SALCH**

State of Texas

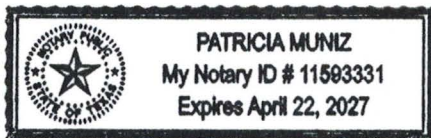
County of Travis

BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

1. "My name is Susan E. Salch. I am of sound mind, capable of making this affidavit, and am competent to testify to the matters contained in this affidavit.
2. I am a partner in CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of Friday Health Insurance Company, Inc. (the "SDR" and "FHIC" respectively), I am duly authorized to make this Affidavit on behalf of the SDR.
3. I have reviewed the *Special Deputy Receiver's Application for Approval of Claim Filing Deadline, Notice to Creditors, and Procedures for Processing Claims* and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with the staff and subcontractors.
4. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached hereto were produced pursuant to TEX. INS. CODE § 443.017, are either true and correct copies of records of FHIC and were received from the custody of FHIC or found among its effects, or were created by and filed with the Receiver's office in connection with the receivership of this delinquent company, and are held by the Special Deputy Receiver in its official capacity."

By: Susan E. Salch  
Susan E. Salch

**SUBSCRIBED AND SWORN TO BEFORE ME** on September 25, 2023, by  
Susan E. Salch, Special Deputy Receiver of Friday Health Insurance Company, Inc.



Patricia Muniz  
Notary Public

# **EXHIBIT 1**

**Claim Filing Deadline:**  
**11:59 p.m. Central Time**  
\_\_\_\_\_, 2024

**NOTICE OF LIQUIDATION AND  
DEADLINE TO FILE PROOF OF CLAIM**

**Friday Health Insurance Company, Inc.** (“FHIC”) was placed in liquidation by order of the 345<sup>th</sup> Travis County District Court (the “Receivership Court”). CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of FHIC (“SDR”), is handling the liquidation of FHIC. Certain acts against FHIC are stayed under section 443.008 of the Texas Insurance Code. This notice explains how claims against FHIC can be filed.

**Claims must be filed on a Proof of Claim form.** A Proof of Claim (“POC”) is the claim form included with this notice. The contents of this form are required by law and include information that the SDR needs to process a claim.

**A POC must be filed unless an exception applies.**

If you have an unpaid claim that FHIC was responsible for paying, you must file a POC to make a claim unless one of the exceptions described below applies. You do *not* need to file a POC if:

1. You had a claim under an insurance policy that was fully paid by the Texas Life and Health Guaranty Association (“TLHIGA”), or you settled your claim with TLHIGA. You will not have an unpaid claim in the receivership, as your claim has been resolved.
2. You have a claim for goods or services provided to FHIC *on or after* March 23, 2023, and:
  - (a) the goods or services were provided at the request of the Liquidator or the SDR, and
  - (b) the Liquidator or the SDR approved the payment of goods or services.
3. You have a claim which exceeds the TLHIGA \$500,000 statutory maximum.

If you do not know if one of these exceptions apply to your claim, you should file a POC.

**Instructions on completing the POC:** All applicable blanks on the POC form must be completed, and the form must be signed before a notary and notarized. You must provide sufficient information in your POC and include any documents supporting your claim. A separate POC must be submitted for each person or each claim. If the POC form is submitted on behalf of another person, you must provide evidence that you are authorized to file the claim on behalf of that person. A POC form may be duplicated.

**Filing deadline for POCs:** The Receivership Court has established a deadline and procedure for filing claims against FHIC. To file a claim, you must complete and return the POC form as described below so that it is postmarked or received by the SDR **no later than 11:59 p.m. Central Time on [nine (9) months after the date of entry]** (the “Filing Deadline”).

**Exhibit**  
**1**

You may send your POC to the SDR by U.S Mail, courier (delivery service) or hand delivery. If you mail your POC, it does not need to be sent by registered or certified mail, unless you want proof of receipt. You should keep a copy of your POC and any proof that it was mailed or delivered. You should allow sufficient time to ensure that your POC is received by the SDR by the Filing Deadline. **A POC postmarked by the Filing Deadline but received after the Filing Deadline is not timely filed.**

**You cannot send a POC by e-mail or fax. Any POC received by e-mail or fax will not be accepted.**

The POC must be addressed to the SDR to one of the addresses below:

**BY MAIL:**

CANTILO & BENNETT, L.L.P.  
Special Deputy Receiver  
Friday Health Insurance Company, Inc.  
P.O. Box 184  
Austin, Texas 78767  
ATTENTION: CLAIMS

**BY COURIER OR HAND DELIVERY:**

CANTILO & BENNETT, L.L.P.  
Special Deputy Receiver  
Friday Health Insurance Company, Inc.  
11401 Century Oaks Terrace, Suite 300  
Austin, Texas 78758  
ATTENTION: CLAIMS

**What happens after you file your POC:** The SDR will review your POC to determine if you have a claim against FHIC. If your claim is payable by a Guaranty Fund, your POC will be sent to the Guaranty Fund responsible for your claim. If the SDR finds that you have a valid claim against FHIC that is not payable by a Guaranty Fund, you will be notified.

Approved claims are paid according to their priority class. The SDR will notify you when it determines the priority class of your POC and, if applicable, the amount awarded on the claim. A distribution on claims in a class can be made if there are funds available for that class. The SDR does not know whether there will be funds to pay claims, or when a distribution might be made. If your POC is approved, and funds are available to pay your claim, you will be notified.

**It is important that you inform the SDR of any change to your address. If the SDR does not have your current address, you might not receive future notices or payments.**

Additional information about the FHIC receivership is available on the SDR's web site, [www.fridayhealthtxsdr.com](http://www.fridayhealthtxsdr.com). The web site will be updated periodically.

# **EXHIBIT 2**

**FRIDAY HEALTH INSURANCE COMPANY, INC.  
NOTICE OF LIQUIDATION AND CLAIMS FILING DEADLINE**

The 345th District Court of Travis County, Texas ordered the liquidation of Friday Health Insurance Company (“FHIC”). Certain acts against FHIC are stayed under section 443.008 of the Texas Insurance Code. You can obtain information about FHIC’s liquidation and the claim filing process at [www.fridayhealthtxsdr.com](http://www.fridayhealthtxsdr.com). To request a claim form call (toll free) (888) 630-2742, e-mail [info@FridayHealthTXSDR.com](mailto:info@FridayHealthTXSDR.com), or write CANTILO & BENNETT, L.L.P., P.O. Box 184, Austin, Texas 78767 ATTENTION: CLAIMS. The court set a deadline of \_\_\_\_\_, 2024 to file a Proof of Claim.

**Claims must be filed on an approved Proof of Claim form and be postmarked or received on or before 11:59 p.m. Central Time, \_\_\_\_\_, 2024.**

# **EXHIBIT 3**



To Be Completed by SDR	
POC # _____	_____
Claim # _____	_____
Date Received _____	_____

<b>Filing Deadline:</b> _____, 2024 <b>11:59 p.m. Central Time</b>
--

**FRIDAY HEALTH INSURANCE COMPANY, INC.  
PROOF OF CLAIM**

Return this completed Proof of Claim form and any supporting documents. A Proof of Claim must be **postmarked or received** by the SDR no later than \_\_\_\_\_, **2024 11:59 p.m. Central Time** at one of the addresses shown below.

BY MAIL:  
 CANTILO & BENNETT, L.L.P.  
 Special Deputy Receiver  
 Friday Health Insurance Company, Inc.  
 P.O. Box 184  
 Austin, Texas 78767  
 ATTENTION: CLAIMS

BY COURIER OR HAND DELIVERY:  
 CANTILO & BENNETT, L.L.P.  
 Special Deputy Receiver  
 Friday Health Insurance Company, Inc.  
 11401 Century Oaks Terrace, Suite 300  
 Austin, Texas 78758  
 ATTENTION: CLAIMS

**Please read the Proof of Claim instructions carefully before completing this Proof of Claim. Please print or type.**

Name of Claimant	\$ _____
Street Address	Total Amount of Claim
City	Soc. Sec. or Tax ID Number
State	Telephone Number
Zip	Facsimile Number
E-mail Address	

**If the claimant is represented by an attorney, please complete the following section, and attach a copy of the Power of Attorney:**

Name of Attorney	State Bar No.
Name of Law Firm	Tax ID Number
Street Address	Telephone Number
City	Facsimile Number
State	
Zip	
E-mail Address	



Provide an explanation of your claim below, and state if there is any security on the claim or any payments that have been made on the claim. Attach additional pages if necessary.


**NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM**

**AFFIRMATION OF CLAIMANT**

**Texas law requires the following statement in a Proof of Claim**

Unless otherwise stated in this proof of claim:

I alone am entitled to file this claim. No others have an interest in this claim. No payments have been made on the claim. No third party is liable on this debt. The sum claimed is justly owing, and there is no set-off counterclaim, or defense to the claim. I declare, under penalty of perjury, that all of the statements made in this Proof of Claim and all documents attached to this form are true, complete, and correct. If I am making a claim against a person insured by Friday Health Insurance Company, Inc., I understand that I am waiving any right to pursue the personal assets of that person, to the extent of the coverage and limits provided by the policy issued by Friday Health Insurance Company, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who has executed this instrument on such individual's own behalf, who is personally known to me or who has produced a Driver License or other information as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires: \_\_\_\_\_

**(NOTARY SEAL)**

# **EXHIBIT 4**

## **NOTICE TO CLAIMANTS WITH CLAIMS IN EXCESS OF \$500,000**

**The Special Deputy Receiver of Friday Health Insurance Company, Inc. (the “SDR and “FHIC”) has filed an application which may affect your rights, if any one or more of your claims against the company is greater than \$500,000.**

FHIC was placed in liquidation by order of the 345<sup>th</sup> Travis County District Court (the “Receivership Court”). CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of FHIC is handling the liquidation of FHIC. The Texas Life and Health Insurance Guaranty Association (“TLHIGA”) has assumed the obligation to pay certain claims owed by FHIC up to its statutory maximum or “cap” of \$500,000.00 (the “TLHIGA Cap”). The SDR and TLHIGA have determined that your claim may exceed, or has exceeded, the TLHIGA Cap.

The relief sought in the Special Deputy Receiver’s Application for Approval of Claim Filing Deadline, Notice to Creditors, and Procedures for Processing Claims (the “POC Application”) includes a request that claimants who have filed claims with TLHIGA, but whose claims are over the TLHIGA Cap (“OTC Claims”) will not be required to file a proof of claim (“POC”) with the SDR. Such claims will be “deemed” to have been filed, will be adjudicated, and any approved amount(s) paid (to the extent of available assets) as if a POC had been filed with the SDR.

**The POC Application includes a request that claimants with OTC Claims shall have waived any right to seek payment of amounts they believe are owed from an FHIC insured. This requirement would apply to your claim even if you do not file a POC with the SDR.**

If the Court grants the relief requested by the SDR, a claimant with an OTC Claim will not be able to attempt to collect from the FHIC insured. Instead, such claimant shall waive any right to pursue the personal assets of the insured with respect to the claim, to the extent of the coverage or policy limits provided by the insurer, and agrees that to the extent of the coverage or policy limits provided by the insurer, the claimant will seek satisfaction of the claim against the insured solely from distributions paid by the liquidator on the claim and from any payments from TLHIGA may pay on account of the claim, except as provided in this section.

If you wish to object to this relief, you must file your objection as follows:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date of **October 16, 2023**.
2. A copy of any objection shall be served by e-mail by such date on:
  - (a) The Master’s Docket Clerk, at [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov);
  - (b) The undersigned counsel, Greg Pierce at [gpierce@gpiercelaw.com](mailto:gpierce@gpiercelaw.com); and
  - (c) All interested parties, including those listed on the SDR’s Certificate of Service.

3. The objecting party shall coordinate with the SDR's counsel and the Docket Clerk [(512) 676-6915)] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. 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.
5. **Please note that if an objection is not filed as described in the Notice of Submission, the Master may consider the Application without a hearing.**
6. **Failure to file timely a written objection before the Master constitutes a waiver of the right to object to the Master's recommendation to the District Court.**

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT OF    TRAVIS COUNTY, TEXAS   345th JUDICIAL DISTRICT
v.		
FRIDAY HEALTH INSURANCE COMPANY, INC. <i>Defendant.</i>		

**ORDER GRANTING SPECIAL DEPUTY RECEIVER’S APPLICATION FOR APPROVAL OF CLAIM FILING DEADLINE, GUIDELINES FOR PROVIDING NOTICE, AND PROCEDURES FOR PROCESSING CLAIMS**

On this date, the Court heard the *Special Deputy Receiver’s Application for Approval of Claim Filing Deadline, Guidelines for Providing Notice, and Procedures for Processing Claims* (the “Application”) filed by CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Friday Health Insurance Company, Inc. (the “SDR” and “FHIC” respectively). The SDR appeared by and through its counsel. The Application was submitted to the Master appointed in this cause (“Master”) in accordance with the *Agreed Order of Reference to Master* (“Order of Reference”). The Master issued a recommendation under Rule 171 of the Texas Rules of Civil Procedure, which is incorporated herein.

Having considered the Application and the recommendation, the Court finds as follows:

1. The *Order of Reference* provides that motions filed pursuant to TEX. INS. CODE § 443.155 are referred to the Master;
2. Notice of the Application was provided in accordance with TEX. INS. CODE § 443.007 (d) and the *Order of Reference*;
3. No objections to the Application were filed;

4. The Texas Life and Health Insurance Guaranty Association (“TLHIGA”) filed its acknowledgement and waiver;
5. The Court has jurisdiction over the Application and the parties affected hereunder;  
and
6. The SDR’s Application should be granted as set forth below.

All capitalized terms used herein shall have the same meaning as used in the Application.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** as follows:

1. The Application is GRANTED in all respects;
2. The notices and forms as described in the Application are APPROVED;
3. The Court finds that the provisions of the Application and its exhibits comply with the requirements of § 443.155 of the Texas Insurance Code and due process;
4. If any deadline set forth in this Order falls on a weekend day or federal holiday, all POCs must be postmarked or received at the address designated by the SDR on or before 11:59 p.m. Central Time on the next business day in order to be considered timely.
5. The claim filing deadline is nine (9) months from the date this Order is entered;
6. The SDR’s proposed claim processing procedures are APPROVED;
7. Claimants with OTC Claims that exceed TLHIGA’s \$500,000 maximum per claim payment are not required to file a proof of claim and those claims are deemed to have been filed. Those deemed claims shall be treated for all purposes as if it had been filed with the SDR, including the waiver and release of any obligation of any FHIC insured for payment of such claim. This order does not affect the classification of such claims or the ultimate allowance of any

such claims;

8. If the SDR files a disputed claims proceeding under § 443.257 of the Code and the SDR determines that documents including sensitive data as defined in Rule 21c of the Texas Rules of Civil Procedure must be filed in connection with a disputed claim, the SDR shall either redact such information from the documents, or submit the documents to the Special Master or this Court under seal for in camera inspection in accordance with § 443.007(c) of the Code;
9. The SDR is authorized to enter into such contracts and agreements as may be necessary or expedient to carry out the actions approved by this Order;
10. Claimants who assert third-party claims against FHIC insureds and who file, or are deemed to have filed, a Proof of Claim with the SDR shall be deemed to have released and waived any such claim against the FHIC insured under § 443.256(h) of the Texas Insurance Code; and
11. This Order constitutes a final Order fully resolving all issues relating to the Application.

Signed on \_\_\_\_\_, 2023.

---

JUDGE PRESIDING



THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
FRIDAY HEALTH INSURANCE COMPANY, INC. <i>Defendant.</i>	§	
	§	
	§	345th JUDICIAL DISTRICT

**ORDER GRANTING SPECIAL DEPUTY RECEIVER’S APPLICATION FOR APPROVAL OF CLAIM FILING DEADLINE, GUIDELINES FOR PROVIDING NOTICE, AND PROCEDURES FOR PROCESSING CLAIMS**

On this date, the Court heard the *Special Deputy Receiver’s Application for Approval of Claim Filing Deadline, Guidelines for Providing Notice, and Procedures for Processing Claims* (the “Application”) filed by CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Friday Health Insurance Company, Inc. (the “SDR” and “FHIC” respectively). The SDR appeared by and through its counsel. The Application was submitted to the Master appointed in this cause (“Master”) in accordance with the *Agreed Order of Reference to Master* (“Order of Reference”). The Master issued a recommendation under Rule 171 of the Texas Rules of Civil Procedure, which is incorporated herein.

Having considered the Application and the recommendation, the Court finds as follows:

1. The *Order of Reference* provides that motions filed pursuant to TEX. INS. CODE § 443.155 are referred to the Master;
2. Notice of the Application was provided in accordance with TEX. INS. CODE § 443.007 (d) and the *Order of Reference*;
3. No objections to the Application were filed;

4. The Texas Life and Health Insurance Guaranty Association (“TLHIGA”) filed its acknowledgement and waiver;
5. The Court has jurisdiction over the Application and the parties affected hereunder; and
6. The SDR’s Application should be granted as set forth below.

All capitalized terms used herein shall have the same meaning as used in the Application.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** as follows:

1. The Application is GRANTED in all respects;
2. The notices and forms as described in the Application are APPROVED;
3. The Court finds that the provisions of the Application and its exhibits comply with the requirements of § 443.155 of the Texas Insurance Code and due process;
4. If any deadline set forth in this Order falls on a weekend day or federal holiday, all POCs must be postmarked or received at the address designated by the SDR on or before 11:59 p.m. Central Time on the next business day in order to be considered timely.
5. The claim filing deadline is nine (9) months from the date this Order is entered;
6. The SDR’s proposed claim processing procedures are APPROVED;
7. Claimants with OTC Claims that exceed TLHIGA’s \$500,000 maximum per claim payment are not required to file a proof of claim and those claims are deemed to have been filed. Those deemed claims shall be treated for all purposes as if it had been filed with the SDR, including the waiver and release of any obligation of any FHIC insured for payment of such claim. This order does not affect the classification of such claims or the ultimate allowance of any

such claims;

8. If the SDR files a disputed claims proceeding under § 443.257 of the Code and the SDR determines that documents including sensitive data as defined in Rule 21c of the Texas Rules of Civil Procedure must be filed in connection with a disputed claim, the SDR shall either redact such information from the documents, or submit the documents to the Special Master or this Court under seal for in camera inspection in accordance with § 443.007(c) of the Code;
9. The SDR is authorized to enter into such contracts and agreements as may be necessary or expedient to carry out the actions approved by this Order;
10. Claimants who assert third-party claims against FHIC insureds and who file, or are deemed to have filed, a Proof of Claim with the SDR shall be deemed to have released and waived any such claim against the FHIC insured under § 443.256(h) of the Texas Insurance Code; and
11. This Order constitutes a final Order fully resolving all issues relating to the Application.

Signed on \_\_\_\_\_, 2023.

---

JUDGE PRESIDING

### Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Greg Pierce on behalf of Greg Pierce

Bar No. 15994250

gpierce@gpiercelaw.com

Envelope ID: 80113020

Filing Code Description: Motion (No Fee)

Filing Description: SPECIAL DEPUTY RECEIVER'S APPLICATION FOR APPROVAL OF CLAIM FILING DEADLINE, NOTICE TO CREDITORS, AND PROCEDURES FOR PROCESSING CLAIMS

Status as of 10/1/2023 11:25 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Christopher G. Fuller	7515500	cfuller@fullerlaw.org	9/29/2023 4:14:50 PM	SENT
Gregory Alan Pierce	15994250	gpierce@gpiercelaw.com	9/29/2023 4:14:50 PM	SENT
Thomas Daniel Hollaway	9866700	dhollaway@houstonlaw.com	9/29/2023 4:14:50 PM	SENT
Kelly M.Olson		kelly.olson@faegredrinker.com	9/29/2023 4:14:50 PM	SENT
James Danford	24105775	jdanford@mayerbrown.com	9/29/2023 4:14:50 PM	SENT
Patricia Muniz		pmuniz@inquestresources.com	9/29/2023 4:14:50 PM	SENT
Brian Falligant		bfalligant@inquestresources.com	9/29/2023 4:14:50 PM	SENT

#### Associated Case Party: TEXAS DEPARTMENT OF INSURANCE

Name	BarNumber	Email	TimestampSubmitted	Status
Shawn Martin	13122100	shawn.martin@tdi.texas.gov	9/29/2023 4:14:50 PM	SENT
Brian E. Riewe	16915600	brian.riewe@tdi.texas.gov	9/29/2023 4:14:50 PM	SENT
Zachary L.Rhines		zachary.rhines@oag.texas.gov	9/29/2023 4:14:50 PM	SENT
Special MasterClerk		specialmasterclerk@tdi.texas.gov	9/29/2023 4:14:50 PM	SENT
Vane Hugo		Vane.Hugo@tdi.texas.gov	9/29/2023 4:14:50 PM	SENT
John Walker		John.Walker@tdi.texas.gov	9/29/2023 4:14:50 PM	SENT

#### Associated Case Party: FRIDAY HEALTH INSURANCE COMPANY, INC

Name	BarNumber	Email	TimestampSubmitted	Status
Stanton K. Strickland	786392	sstrickland@mwlaw.com	9/29/2023 4:14:50 PM	SENT

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Greg Pierce on behalf of Greg Pierce

Bar No. 15994250

gpierce@gpiercelaw.com

Envelope ID: 80113020

Filing Code Description: Motion (No Fee)

Filing Description: SPECIAL DEPUTY RECEIVER'S APPLICATION FOR APPROVAL OF CLAIM FILING DEADLINE, NOTICE TO CREDITORS, AND PROCEDURES FOR PROCESSING CLAIMS

Status as of 10/1/2023 11:25 AM CST

Associated Case Party: Quest Diagnostic Clinical Laboratories, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Kristen Perry		Kristen.perry@faegredrinker.com	9/29/2023 4:14:50 PM	SENT

Associated Case Party: TEXAS LIFE AND HEALTH INSURANCE

Name	BarNumber	Email	TimestampSubmitted	Status
Jacqueline Rixen		jrixen@rixenlaw.com	9/29/2023 4:14:50 PM	SENT