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17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 SCOTT J. KIPPER, COMMISSIONER OF
20 INSURANCE, STATE OF NEVADA,

21 Petitioner,

22 vs.

23 FRIDAY HEALTH PLANS OF NEVADA, INC.,

24 Defendant.

CASE NO. A-23-871639-C
DEPARTMENT 18

[HEARING REQUESTED]

**MOTION REQUESTING THE
SETTING OF A CLAIMS FILING
DEADLINE AND GRANTING
RELATED RELIEF**

25 Petitioner, SCOTT J. KIPPER, COMMISSIONER OF INSURANCE, STATE OF NEVADA
26 as Receiver (“Commissioner” or “Receiver”) for FRIDAY HEALTH PLANS OF NEVADA, INC.
27 (“Friday Health”), files this Motion Requesting the Setting of a Claims Filing Deadline and Granting
28 Related Relief (“Motion”). This Motion is made and based on these papers and oral argument
permitted on this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND BACKGROUND

Friday Health is a Nevada-domiciled insurer offering life and health products and health insurance. In 2022, the Nevada Division of Insurance (“Division”) required Friday Health to infuse

1 funds to increase its total capital and surplus because its finances suggested that it was approaching a
2 dangerous financial condition.¹ Despite the infusion, Friday Health’s financial filings with the
3 Division suggested that it had insufficient capital, and it was in financial distress. The Commissioner
4 of Insurance thus initiated delinquency proceedings with Friday Health’s consent based on concerns
5 about Friday Health’s financial condition.

6 On June 12, 2023, the Court authorized the Receiver to assume control over Friday Health and
7 attempt rehabilitation (“Receivership Order”). After the Commissioner was appointed as Receiver,
8 he designated Ellingson & Associates, LLC as the Special Deputy Receiver (“SDR”). In furtherance
9 of the Receivership Order, the SDR obtained various Friday Health records, including information
10 related to policyholders, claims status, and the company’s financial records. The Receiver concluded,
11 after reviewing the records, that Friday Health could not be rehabilitated as it could not meet financial
12 obligations as they became due and continuing operations would deplete the limited remaining assets
13 at the detriment of the company, policyholders, creditors, and public. As a result of the same, the
14 Commissioner determined that the continuation of Friday Health’s business would jeopardize the
15 insurer’s solvency and notice was provided to policyholders that all policies would terminate at the
16 end of the day on August 31, 2023. Thereafter, this Court found Friday Health to be insolvent and
17 placed Friday Health into liquidation as of September 1, 2023.

18 An insolvent insurer’s liquidation, such as Friday Health’s, is governed by statute. Under NRS
19 Chapter 696B, the Receiver must request Court approval of a process in which Friday Health’s
20 previous insureds and creditors can submit claims to its estate. NRS 696B.330(1). The Receiver thus
21 moves this Court for an order setting a claims filing deadline and requests the Court approve a
22 procedure for submitting and processing claims as set forth below.

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24 ¹ Friday Health is one of several related companies scattered across the United States offering health insurance,
25 all of which are also in pending receiverships due to financial inadequacy. As further detailed in the Petition
26 for Appointment of Receiver and exhibits thereto, Friday Health is a subsidiary of Friday Health Plans
27 Management Services Company, Inc. (“FHP Parent”), which is licensed as a non-resident third-party
28 administrator in Nevada, and as a non-resident producer firm in Nevada. FHP Parent is a subsidiary of Friday
Health Plans, Inc. (“FHP Ultimate Parent”), a Delaware company located in Colorado. FHP Parent and FHP
Ultimate Parent have other “Friday Health Plan” insurance companies in other states, including Colorado,
Texas, Georgia, Oklahoma, and North Carolina (collectively, “FHP Companies”). FHP Ultimate Parent
operated the FHP companies, which are all now subject to receivership proceedings.

1 **II. RELEVANT FACTS & PROPOSED CLAIMS PROCESS**

2 In order to move this matter, forward, the Receiver is seeking the approval of a claims process
3 by which parties that conducted business with Friday Health can submit a claim for consideration.
4 Notably, the Nevada Life and Health Insurance Guaranty Association² (“Guaranty Association”) has
5 taken responsibility for ongoing medical claims for Friday Health Members. Indeed, the Guaranty
6 Association has processed 10,000 of approximately 12,000 open claims for Friday Health Members
7 and continues to process claims daily. The Guaranty Association will process all claims for services
8 provided to policy holders before midnight on August 31st (the last day of Friday Health insurance
9 coverage), pursuant to the terms of the policy and up to a statutory limit of \$500,000.

10 Because of Guaranty Association Coverage, the Receiver asks the Court to dispense with the
11 filing of a proof of claim for policyholders and medical providers who provided services to
12 policyholders where the aggregate claims that were unpaid as of September 1, 2023, do not exceed
13 the \$500,000 lifetime statutory limit for health benefits of the Guaranty Association as set forth in
14 NRS 686C.210 (2). This will streamline the claims process and avoid duplicative claims. The parties
15 anticipated to utilize the claims process will primarily be parties doing business with Friday Health
16 such as brokers, vendors, creditors, taxing authorities, etc. Additionally, any policyholder or medical
17 provider who provided services to policyholders where aggregate claims to be paid post liquidation
18 exceed the \$500,000 lifetime statutory limit will be notified by the Receiver to file a Proof of Claim.

19 Pursuant to Chapter 696B of the Nevada Revised Statutes, the Receiver requests this Court
20 approve a process by which the Receiver will provide notice of the claims process and which will
21 govern the adjudication of claims. This includes approval of a claims deadline, claims form, and
22 filing deadline. *See*, NRS 696B.330 and 696B.460(2). Notably, the Receiver must notify all persons
23 who may have claims against the insurer to file such claims within the time specified in the notice

24 _____
25 ² The Nevada Life & Health Insurance Guaranty Association was created by the Nevada legislature to protect
26 state residents who are policyholders and beneficiaries of policies issued by an insolvent insurance company,
27 subject to exclusions and specified limits. All insurance companies and health maintenance organizations (with
28 limited exceptions) licensed to write life and health insurance or annuities in Nevada are required, as a condition
of doing business in the state, to be members of the Guaranty Association. If a member company becomes
insolvent, money to continue coverage and pay claims is obtained from the insolvent estate and through
assessments of the Guaranty Association's other member insurance companies writing the same line or lines of
insurance as the insolvent company.

1 provided. NRS 696B.460(2). The Court must fix the time specified in the notice, and the time
2 specified cannot be less than six (6) months after the entry of the liquidation order. *Id.* **Here, the**
3 **Receiver asks the Court to set a claims filing deadline of July 31, 2024 (the “Claims Filing**
4 **Deadline”).**

5 As the Court is aware, all Friday Health policies were canceled on August 31, 2023. The
6 Claims Filing Deadline will permit interested parties sufficient time and opportunity to identify and
7 file claims. If a person fails to file a claim with the Receiver by the Claims Filing Deadline, and in
8 the method provided by this Court’s Order, then the claim “shall be forever barred.”
9 NRS 696B.460(2). In keeping with NRS 696B.460(2), the Receiver asks this Court to order that all
10 claims against Friday Health not received on or before the Claims Filing Deadline, and sent to the
11 address specified by the Receiver, be deemed not to have been timely and be barred, not subject to
12 processing by the Receiver, and ineligible to share in any distribution of the estate’s assets.

13 Additionally, with respect to contingent claims,³ no contingent and unliquidated claim should
14 share in a distribution of the assets of an insolvent insurer, except in three limited circumstances.
15 NRS 696B.450. Those limited circumstances exist: if the claim becomes absolute against the insurer
16 on or before the claims filing deadline. NRS 696B.450(1)(a); if there is a surplus and the liquidation
17 is thereafter conducted on the basis that the insurer is not insolvent. NRS 696B.450(1)(b); or if a
18 person has a cause of action against an insured of the insurer, and can meet the requirements of
19 NRS 696B.450(2). Accordingly, the Receiver requests that this Court order that claims which have
20 not been liquidated in amount and made non-contingent on or before the Claims Filing Deadline may
21 not share in the receivership estate unless the claimant meets one of the exceptions found in NRS
22 696B.450, which will be in the Receiver’s sole discretion to determine.

23 The Receiver proposes providing notice to all interested parties of the claims process through
24 a form substantially similar to **Exhibit 1**, attached hereto (the “Notice”) pursuant to the procedure
25 outlined below.

26 _____
27 ³ A claim is contingent or unliquidated when the amount due under the claim may never become due. *See,*
28 *e.g., Margrave v. Craig*, 92 Nev. 760, 761, 558 P.2d 623, 624 (1976); *Lobue v. State ex rel. Dep’t of Highways*,
87 Nev. 372, 375, 487 P.2d 506, 508 (1971) (noting that a claim is liquidated when the amount due is
ascertainable).

1 **III. NOTICE**

2 NRS Chapter 696B provides that notice should be given to creditors of the time to file claims
3 (*i.e.*, the claim filing deadline), and the chapter also provides guidance regarding the notices
4 required for claim determinations and the appeals of such determinations. However,
5 NRS Chapter 696B does not specify the method for providing claimants notice of a motion to approve
6 the claims procedure and/or specify how notice of the claims filing deadline and claims process is to
7 be provided.

8 As such, the Receiver intends to post a copy of this Motion and any related orders on the
9 Friday Health Website at <https://fridayhealthplansofnevada.com>. Additionally, the Receiver proposes
10 providing the Notice to all parties known to have conducted business with Friday Health, by United
11 States mail and will email copies of the notice to all known email recipients for parties known to have
12 conducted business with Friday Health. The parties the Receiver intends to send notice to include:

- 13 a. All known persons identified as actively insured by Friday Health on the
14 date of receivership;
- 15 b. All known persons identified as ever having previously been insured by
16 a Friday Health policy;
- 17 c. All persons identified as having submitted claims to Friday Health that
18 have, as of the date of receivership, not been resolved and/or settled;
- 19 d. All attorneys currently or previously representing claimants or insureds
20 of Friday Health;
- 21 e. All known general creditors and vendors;
- 22 f. Government agencies with potential or known claims against Friday
23 Health including the Internal Revenue Service, the Centers for Medicare
24 and Medicaid Services, the United States Department of Justice, the
25 Nevada Attorney General, and any other regulatory departments and
26 agencies which have corresponded with Friday Health and mentioned
27 pending claims;

28 ///

- 1 g. Financial institutions with a history of business with Friday Health; and
- 2 h. All other persons who request in writing to receive this notice or
- 3 information regarding the receivership claim process.

4 The Receiver submits the above will reasonably provide notice of the claims
5 process and bar date to interested parties.

6 **IV. SUBMISSION AND PROCESSING OF CLAIMS**

7 Per NRS 696B.330(1), all claims filed against Friday Health must be filed in the manner and
8 form established by the Receiver, be verified by the affidavit of the claimant (or someone authorized
9 to act on the claimant’s behalf) and be supported by documentation. To simplify the process for
10 claimants, the proposed claims form includes language requiring claimants to attest to the truthfulness
11 of the information provided.⁴ As such, the Receiver requests the Court’s approval to require that all
12 claims against the estate be submitted on the Proof of Claim (“POC”) form attached as **Exhibit 2**.

13 The Receiver seeks authority for the Receiver to process POCs and to make distributions on
14 approved claims after all POCs have been finally resolved, according to the requirements of: (1) NRS
15 696B.420, which requires the payment of each class of approved creditor claims in full, or to retain
16 adequate funds for such payment, before making even partial payments on any inferior class of
17 creditor claims; (2) NRS 696B.450, which precludes payment on any claim that is not rendered
18 absolute (i.e., both non-contingent and liquidated in amount) on or before the proposed Claims Filing
19 Deadline; (3) NRS 696B.330 which provides, inter alia, that every claim against an insurer in
20 receivership must be filed in a manner and form that sets forth in reasonable detail the amount of the
21 claim, the facts underlying the claim, and any payment priority asserted; and (4) such other
22 requirements as this Court may provide.

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25 _____
26 ⁴ NRS 696B.330 states that all claims submitted to the receivership “must be verified by the affidavit of the
27 claimant, or someone authorized of act on the behalf of the claimant[.]” NRS 696B.330(1). Under Nevada law,
28 “verification” and “affidavit” refers to sworn statements made under oath. *See, e.g.*, NRS 132.360 (defining
verification to mean a statement made under oath or affirmation); NRS 53.320 (defining “sworn declaration”
to mean a “signed record given under oath” including “a sworn statement, verification, certificate and
affidavit.”).

1 **V. APPEALS**

2 The Receiver also asks that the Court adopt the Appeal Form set forth in **Exhibit 3** to facilitate
3 the orderly disposition or resolution of claims or controversies involving the receivership estate. The
4 Receiver will mail, by first-class mail, postage prepaid, to each claimant that filed a POC, written
5 notice of the determination regarding the claim. NRS 696B.330(5). Claimants have sixty (60) days
6 after the mailing of the written notice to file with the Receiver an objection to the determination of
7 the Receiver on the claim (i.e., an appeal). NRS 696B.330(7). The Receiver will report to the Court
8 any unresolved objections, so that a hearing may be set for the resolution of such claims. NRS
9 696B.330(8). The Receiver will notify claimants of the time and place of the hearing. *Id.*

10 Lastly, a final, appealable order by the Court is necessary to enforce the Court's orders relating
11 to the Claims Filing Deadline. An interlocutory order would be subject to appeal, potentially years
12 after any approved claims filing deadline passes. This would make a swift resolution of the claims
13 against the estate impossible, and the distribution of any estate assets impracticable until such time as
14 a final appealable order were to eventually be entered. Accordingly, the Receiver respectfully requests
15 that the Court designate the orders requested as final orders pursuant to NRS 696B.190(5).

16 **IV. CONCLUSION**

17 For the reasons discussed above, the Receiver respectfully requests that the Court:

- 18 1. Enter a Final Order that:
 - 19 a. **Sets July 31, 2024, as the Claims Filing Deadline;**
 - 20 b. **approves the claims notice procedures proposed herein;**
 - 21 c. **Approves the form of notice attached as Exhibit 1, and finds**
22 **that it complies with applicable Nevada law;**
 - 23 d. **Approves the POC form attached as Exhibit 2, and finds that**
24 **it complies with applicable Nevada law;**
 - 25 e. **Approves the claims and appeals processing procedures**
26 **described herein and finds that forms substantially similar to the Exhibits 2**
27 **and 3, comply with applicable Nevada law and are within the authority**
28 **granted to the Receiver by this Court in its Receivership Order;**

1 f. Directs that claims which have not been liquidated in amount
2 and made non-contingent on or before the Claims Filing Deadline may not
3 share in the assets of the receivership estate (subject to any applicable
4 exceptions found in NRS 696B.450, which will be in the Receiver's sole
5 discretion to determine);

6 g. Orders that all claims against Friday Health not received on or
7 before July 31, 2024, and sent to the address specified by the Receiver will
8 be deemed not timely filed and shall be barred, not subject to processing by
9 the Receiver, and ineligible to share in any distribution of the assets of the
10 estate;

11 h. Grants all other relief requested by the Motion; and

12 i. Grants the Receiver such other relief as the Court may deem
13 just and equitable.

14 DATED this 7th day of March, 2024

GREENBERG TRAUERIG, LLP

15 */s/ Kara B. Hendricks*

16 MARK E. FERRARIO, ESQ.

Nevada Bar No. 01625

17 KARA B. HENDRICKS, ESQ.

Nevada Bar No. 07743

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INDEX OF EXHIBITS		
EXHIBIT	DESCRIPTION	BATES RANGE
1	NOTICE OF LIQUIDATION, PERMANENT INJUNCTION AND DEADLINE FOR FILING PROOF OF CLAIM FORM	001 - 003
2	PROOF OF CLAIM FORM	004 - 006
3	APPEAL FORM	007 - 009

EXHIBIT 1

EXHIBIT 1

Notice

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SCOTT J. KIPPER, COMMISSIONER OF
INSURANCE, STATE OF NEVADA,

Petitioner,

vs.

FRIDAY HEALTH PLANS OF NEVADA, INC.,

Defendant.

CASE NO. A-23-871639-C
DEPARTMENT 18

CLAIMS BAR DATE: JULY 31, 2024

**NOTICE OF LIQUIDATION, PERMANENT INJUNCTION
AND DEADLINE FOR FILING PROOF OF CLAIM**

Please read this notice carefully as it describes important rights you or your organization might have, prohibitions against actions by you, and where you can obtain additional information concerning Friday Health Plans of Nevada, Inv., (“FHPNV”) and your potential rights in connection with this liquidation. This notice is issued in accordance with NRS 696B.330 and pursuant to the order of the Eighth Judicial District Court of Clark County, Nevada (“Receivership Court”) with respect to the liquidation of FHPNV, a Nevada licensed health insurance company.

The Receivership Court appointed Scott J. Kipper, Insurance Commissioner, as Receiver for Friday Health Plans of Nevada, Inc., on June 25, 2023, and ordered the Receiver to take possession of the assets of FHPNV and to administer them under the Receivership Court’s supervision (“Receivership Order”). The Receiver is vested by operation of law with title to all the property, contracts, and rights of action of FHPNV, wherever located. The Receivership Order and NRS 696B.350 further provide that all persons are permanently enjoined from the commencement or prosecution of any actions against Friday Health or the Receiver, whether in Nevada or elsewhere, nor shall any existing actions be maintained or further presented. The Receivership Court ordered the liquidation of FHPNV commencing on September 1, 2023. On (TBD) the Receivership Court entered its Final Order Settling Claims Filing Deadline for FHPNV and Related Relief (the “Claims Order”). The Liquidation Order and Claims Order can be found at the FHPNV

website (www.fridayhealthplansofnevada.com) and should be read in their entirety rather than just reading this notice. If you do not have access to the website and need to request a form or have any questions, you may contact the Special Deputy Receiver at the address and phone number shown below.

Claims presented against FHPNV will be reviewed by the Receiver and paid based on priority level and available funds in accordance with NRS 686B.420. Notices of the Receiver's determination on claims presented against FHPNV will be given to claimants and/or their specified counsel. No claims, suits or other proceedings against FHPNV or against any of its assets may be made except through the filing of a claim with the Receiver or in a proceeding brought in the Receivership Court. **Proof of Claim forms received after July 31, 2024, will lose their statutory priority and may not receive a distribution of assets.**

To obtain a proof of claim form, visit the FHPNV website (www.fridayhealthplansofnevada.com) where the form is available. If you do not have access to the website and need to request a form or have any questions, you may contact the Special Deputy Receiver at the address and phone number shown below.

Friday Health Plans of Nevada, Inc.
9348 E Wood Drive
Scottsdale AZ 85260
Telephone: (480) 535-0149

Healthcare Providers, Policyholders, Agents and Brokers

Healthcare Providers and Policyholders should not use the proof of claim form for medical claims in the ordinary course of business. Claims for healthcare services should be presented via the currently established procedure for processing claims.¹ **Do not submit duplicates of claims previously submitted.** Any policyholder or medical provider who provided services to policyholders where aggregate claims to be paid post liquidation that exceed the \$500,000 lifetime statutory limit will be notified by the Receiver to file a Proof of Claim. Agents and Brokers should not file a proof of claim form for owed commissions. The Receiver will review the records of FHPNV to adjudicate claim amounts for commissions.

¹ For additional information regarding the claims process established by the Guaranty Association visit www.nvlifega.org.

EXHIBIT 2

EXHIBIT 2

Proof of Claim form

FRIDAY HEALTH PLANS OF NEVADA, INC.

PROOF OF CLAIM FORM

Proof of Claim Number:

RETURN THIS COMPLETED PROOF OF CLAIM FORM WITH NECESSARY SUPPORTING DOCUMENTATION TO:

Friday Health Plans of Nevada, Inc. in Receivership
ELLINGSON & ASSOCIATES, LLC
9348 E. Wood Drive
Scottsdale, Arizona 85260

Please carefully read the Receivership Claims and Appeal Procedure & Instructions PRIOR to completing this Proof of Claim Form. Please print or type.

_____ NAME OF CLAIMANT	_____ TOTAL AMOUNT OF CLAIM
_____ STREET ADDRESS	_____ SOC. SEC. OR TAX ID NUMBER
_____ CITY STATE ZIP	_____ TELEPHONE NO.
_____ EMAIL ADDRESS	_____ FACSIMILE NO.

If the Claimant is represented by an attorney, please complete the section below:

_____ NAME OF CLAIMANT ATTORNEY	_____ STATE BAR No.
_____ NAME OF LAW FIRM	_____ TAX ID NUMBER
_____ STREET ADDRESS	_____ TELEPHONE No.
_____ CITY STATE ZIP	_____ FACSIMILE No.
_____ EMAIL ADDRESS	

All claims submitted to the Special Deputy Receiver shall set forth in reasonable detail the amount of the claim, or the basis upon which that amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. Claims must be verified by the affidavit of the Claimant (or someone authorized to act on behalf of the Claimant and having knowledge of the facts) and be supported by the applicable written documentation or proof.

Explanation of Claim:

(Attach additional pages if necessary. If this is a policy claim, please include policy and claim number(s) and state whether or not the claim has previously been reported to Friday Health or Friday Health’s claim administrator.)

Unless noted herein, 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. The undersigned subscribes and affirms as true under the penalties of perjury under the laws of the State of Nevada as follows: that he or she has read the foregoing Proof of Claim Form and knows the contents thereof; that this claim against the Company is justly owing to the Claimant; that the matters set forth and in any accompanying statements and supporting documents are true and correct.

PRINT NAME OF CLAIMANT OR AUTHORIZED AGENT

SIGNATURE OF CLAIMANT OR AUTHORIZED AGENT

TITLE

NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM.

EXHIBIT 3

EXHIBIT 3

Appeal Form

FRIDAY HEALTH PLANS OF NEVADA, INC.

APPEAL FORM

Claim Number:

RETURN THIS COMPLETED APPEAL FORM WITH ANY NECESSARY SUPPORTING DOCUMENTATION TO:

Friday Health Plans of Nevada, Inc. in Receivership
Ellingson & Associates, LLC
9348 E Wood Drive
Scottsdale, Arizona 85260

Please carefully read the Receivership Claims and Appeal Procedure prior to completing this Appeal Form. Please print or type.

NAME OF CLAIMANT

TOTAL AMOUNT OF CLAIM

STREET ADDRESS

SOC. SEC. OR TAX ID NUMBER

CITY

STATE

ZIP

TELEPHONE NO.

EMAIL ADDRESS

FACSIMILE NO.

If the Claimant is represented by an attorney, please complete the section below:

NAME OF CLAIMANT ATTORNEY

STATE BAR NO.

NAME OF LAW FIRM

TAX ID NUMBER

STREET ADDRESS

TELEPHONE NO.

CITY

STATE

ZIP

FACSIMILE NO.

EMAIL ADDRESS

Explanation of Appeal:

(You must include a brief explanation, clearly reference the determination or matter that is being appealed (including any applicable claim reference number(s) and the date(s) that the determination(s) were made) and state your desired outcome of this Appeal.

Unless noted herein, I alone am entitled to file this appeal, 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. The undersigned subscribes and affirms as true under the penalties of perjury under the laws of the State of Nevada as follows: that he or she has read the foregoing Appeal Form and knows the contents thereof; that this claim against the Company is justly owing to the Claimant; that the matters set forth and in any accompanying statements and supporting documents are true and correct.

PRINT NAME OF CLAIMANT OR AUTHORIZED AGENT

SIGNATURE OF CLAIMANT OR AUTHORIZED AGENT

TITLE

NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM.

PLEASE CHECK WITH THE SDR BEFORE SENDING ANY LARGE MAILINGS TO PREVENT DUPLICATE DOCUMENT SUBMISSIONS AND CONSERVE THE ASSETS OF THE ESTATE. DO NOT RE-SUBMIT DOCUMENTS THAT WERE PREVIOUSLY SUBMITTED WITH A PROOF OF CLAIM.