

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

_____	:	
Jessica K. Altman, Insurance	:	
Commissioner of the Commonwealth	:	
of Pennsylvania in her capacity as	:	DOCKET NO. 2 SHP 2022
the Statutory Rehabilitator of Senior	:	
Health Insurance Company of	:	
Pennsylvania ("SHIP"),	:	JURY TRIAL DEMANDED
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Vanbridge, an EPIC Company, et al.,	:	
	:	
Defendants.	:	
_____	:	

ORDER

AND NOW, this ____ day of _____, 2022, upon consideration of the Application for Extension of Time to File a Certificate of Merit, filed by Plaintiff, Jessica K. Altman, as Statutory Rehabilitator of SHIP, it is hereby **ORDERED** that the Rehabilitator's Application is **GRANTED**, and SHIP may file any Certificate of Merit required by law within sixty (60) days of the date of this Order.

MARY HANNAH LEAVITT, President Judge

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	:	
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	:	
Defendants.	:	

**APPLICATION FOR EXTENSION OF TIME
TO FILE A CERTIFICATE OF MERIT**

Plaintiff, Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her Official Capacity as Rehabilitator (the "Rehabilitator") of Senior Health Insurance Company of Pennsylvania (in Rehabilitation) ("SHIP"), respectfully requests that this Court enter an Order extending the time in which the Rehabilitator may file a Certificate of Merit, as described more fully herein. In support of this Application, the Rehabilitator states the following:

1. On January 23, 2020, the Rehabilitator filed in this Court an Application seeking to place SHIP in rehabilitation, *inter alia*, due to its insolvency.

2. On January 29, 2020, this Court entered an Order (“Rehabilitation Order”) placing SHIP in rehabilitation and appointing the Rehabilitator, in accordance with the provisions of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, as *amended*, 40 P.S. §§ 221.21-221.63. (Rehabilitation Order at ¶¶ 1-2.)

3. In the Rehabilitation Order, the Court directed the Rehabilitator to “rehabilitate the business of SHIP; to take possession of the assets of SHIP; and to administer the SHIP assets . . .” (*Id.* at ¶ 3.)

4. On January 28, 2022, the Rehabilitator filed the Complaint in this action, asserting claims against seven business entities for breaches of contract, negligence, breach of fiduciary duty, and civil conspiracy.

5. The Pennsylvania Rules of Civil Procedure require the plaintiff or its attorney to file, in every civil action in which a professional liability claim is asserted by or on behalf of a client of a licensed professional, a certificate of merit signed by the attorney or party certifying that “an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm,” or that “the claim

that the defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard," or that the expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim. Pa. R. C. P. 1042.3 (a) (1) - (3).

6. If required, a Certificate of Merit must be filed no later than sixty (60) days after the filing of the Complaint, unless the Rehabilitator moves for an extension of time before the end of that time period. Pa. R. C. P. 1042.3(a).

7. The time period for filing the Certificate of Merit is tolled while a motion for extension of time is pending, and the Court may, for good cause shown, extend the time for filing the Certificate of Merit for a period not to exceed sixty (60) days. Pa. R. C. P. 1042.3(d). There is no restriction on the number of extensions that may be granted. Id. at Official Note.

8. The Complaint in this action was filed on January 28, 2022.

9. The business transactions underlying the Complaint are complex reinsurance and investment transactions involving multiple parties.

10. The sixty (60) day period for filing a Certificate of Merit with regard to the Complaint in this case expires on March 29, 2022.

11. The Rehabilitator has timely filed a Certificate of Merit as to Defendant Dixon Hughes Goodman, LLP (“Dixon Hughes”), an accounting firm, before the March 29, 2022 deadline, as it is clear that the claim against Dixon Hughes sounds in professional negligence and that SHIP had a direct relationship with Dixon Hughes.

12. The Rehabilitator, however, requires additional time to determine whether a Certificate of Merit is necessary with regard to her claims against the other defendants, and if so, the appropriate licensed professional required to provide such written statement. See Pa. R. Civ. P. 1042.1(a); Bruno v. Erie Ins. Co., 106 A.3d 48, 75 (Pa. 2014).

13. In addition, if it is determined that a Certificate of Merit is required, the Rehabilitator will require additional time to retain the appropriate expert(s) to provide the written statement needed to support a Certificate of Merit, pursuant to Pa. R. C. P. 1042.3(a)(1) - (3), and said expert(s) will require time to review the case documents in order to prepare such written statement.

14. Because none of the Defendants have responded to the Complaint to date and no Court deadlines have been set for discovery, Defendants will not be prejudiced if Plaintiff's Application is granted.

15. In addition, counsel for Golden Tree and Vanbridge, an EPIC Company, have been contacted, and neither counsel objects to the filing of this Application for Extension of Time to File a Certificate of Merit. No counsel has entered an appearance yet for Defendants Roebling Re, Ltd., the Bruckner Investment Trust, or the Bruckner Charitable Trust.

WHEREFORE, the Rehabilitator respectfully requests that this Court grant her Application and enter an Order in the proposed form attached hereto, allowing SHIP an additional sixty (60) days from the date of this Order to file any Certificate(s) of Merit that may be required with regard to SHIP's Complaint.

Respectfully submitted,

TUCKER LAW GROUP, LLC

Dated: March 28, 2022

/s/ Leslie Miller Greenspan
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Attorneys for Plaintiff, Jessica K. Altman, Insurance Commissioner of Pennsylvania, as Rehabilitator of
**SENIOR HEALTH INSURANCE
COMPANY OF PENNSYLVANIA**

CERTIFICATE OF SERVICE

I, Leslie Miller Greenspan, hereby certify that on March 28, 2022, I caused to be filed the foregoing document through the Court's PACFile system, and that notice was provided to all parties listed on the Master Service List associated with 1 SHP 2020. In addition, I hereby certify that electronic copies of the foregoing document will be posted on SHIP's website at <https://www.shipltc.com/court-documents>.

/s/ Leslie Miller Greenspan
Leslie Miller Greenspan