

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Roger A. Sevigny, Insurance  
Commissioner of the State of New  
Hampshire, solely in his Capacity as  
Liquidator of The Home Insurance  
Company,

Plaintiff,

v.

Repwest Insurance Company,

Defendant.

Case No. 11-cv-00405-SM

**ANSWER OF DEFENDANT REPWEST INSURANCE COMPANY TO  
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Defendant Repwest Insurance Company (hereafter "Repwest"), by and through its attorneys, answers the First Amended Complaint in the above-entitled matter as follows:

**RESPONSE TO INDIVIDUAL ALLEGATIONS**

1. The allegations set forth in Paragraph 1 of the First Amended Complaint are admitted.
2. Repwest lacks knowledge or information sufficient to form a belief about the truth set forth in Paragraph 2.
3. The allegations set forth in Paragraph 3 are admitted.
4. Answering Paragraphs 4 and 5, Repwest admits that the Federal District Court of New Hampshire has subject matter jurisdiction and that venue is appropriate in this Court.
5. The allegations set forth in Paragraph 6 are admitted.

6. Repwest admits it reinsured The Home Indemnity Company's Policy GL994154 for the policy period April 1, 1983 to April 1, 1984 pursuant to Casualty Facultative Reinsurance Certificate No. 20141.

7. Paragraph 8 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

8. Repwest lacks knowledge or information sufficient to form a belief about the truth set forth in Paragraph 9.

9. Repwest denies that it was provided proper written notice pursuant to Facultative Certificate CC20141. The remainder of Paragraph 10 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

10. Repwest lacks knowledge or information sufficient to form a belief about the truth set forth in Paragraph 11.

11. Repwest denies the allegations of Paragraph 12 that the liquidator properly billed Repwest for amounts due under Facultative Certificate CC20141. Repwest denies any and all other allegations in Paragraph 12.

12. Answering Paragraph 13, Repwest denies the Liquidator has properly billed Repwest for amounts due under Facultative Certificate CC20141. The remainder of Paragraph 13 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

13. Paragraph 14 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

**COUNT I – Breach of Contract**

14. Repwest incorporates its responses to the allegations as set forth in Paragraphs 1 – 14

15. Paragraph 16 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

16. Paragraph 17 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

17. Paragraph 18 sets forth a legal conclusion and/or is introductory in nature and no answer is required. To the extent an answer is required, the allegations are denied.

**AFFIRMATIVE DEFENSES**

18. Additionally, Repwest raises the following defenses:
- a. Failure to state a claim.
  - b. Accord & satisfaction is reserved as a defense.
  - c. *Res judicata* and collateral estoppel are reserved as defenses.
  - d. Repwest is entitled to set-off pursuant to RSA 402-C:34.
  - e. Repwest reserves the right to supplement this list of defenses as may be necessary.

WHEREFORE, Defendant Repwest Insurance Company respectfully requests that this Honorable Court:

- A. Dismiss Plaintiffs' Complaint; and
- B. Award Repwest Insurance Company its reasonable attorney fees and costs
- C. Grant such other further relief as may be deemed just.

Respectfully submitted,

**REPWEST INSURANCE COMPANY,**

By its attorneys,

Dated: January 5, 2012

*s/ Marc R. Scheer*  
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Dated: January 5, 2012

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**CERTIFICATE OF SERVICE**

I certify that a copy of the within document has been electronically served through ECF on the following:

J. Christopher Marshall, Esq.  
J. David Leslie, Esq.  
Eric A. Smith, Esq.  
Marc A. Scheer, Esq.

By: */s/ Marc R. Scheer*