

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO**

Law and Motion Calendar
Honorable Mark A. McCannon
1050 Mission Road, South San Francisco, CA 94080
Department 2, Courtroom K

6/04/26

If you intend to appear on any case on this calendar, you must give notice by 4:00 pm the court day before the hearing pursuant to California Rules of Court, Rule 3.1308(a)(1), and San Mateo County L.R. 3.403(b).

Failure to comply with notice as outlined will result in no oral presentation.

Notice of Appearance and Courtesy Copies

1. Email Dept2@SanMateoCourt.org before 4:00 pm the court day before with a copy to all parties or their counsel of record. The email must include the name of the case, the case number, and the name of the party contesting the tentative ruling **OR** call (650) 261-5102 before 4:00 pm the court day before and follow the instructions on the message.
2. Courtesy Copies: You must email a copy of any reply brief, or an Opposition to a Motion for Summary Judgment in an Unlawful Detainer matter to:
LawAndMotionReplyBriefs@SanMateoCourt.org

Day of Hearing

Appearances can be In Person or Remote. If appearing remotely by Zoom, please use your first and last name and mute your audio until your case is called. All parties must use a device with a camera if you are appearing remotely. Please login to the zoom hearing by 1:50 pm.

Remote Appearance Zoom Information

RECORDING OF A COURT PROCEEDING IS STRICTLY PROHIBITED.

<https://sanmateocourt.zoomgov.com/>

Meeting ID: 160 135 4419

Password: 845111

Zoom telephone dial-in: +1 (669)-254-5252

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) connect from a computer if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any cases referenced; and (8) spell all names, even common names.

Case Title / Nature of Case

2:00 PM

LINE: 1

19-CIV-06531

INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA

INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA
CALIFORNIA INSURANCE COMPANY

MICHAEL J STRUMWASSER
SHAND S. STEPHENS

REAL PARTY IN INTEREST’S MOTION FOR ORDER RECOGNIZING AIR-SEA PACKING GROUP, INC. AS A CLAIMANT

TENTATIVE RULING:

For the reasons stated below, the Motion for an Order Recognizing Air-Sea as a “Claimant,” Etc. (the “Motion”) brought by Interested Party Air-Sea Packing Group, Inc. (“Movant”) is **DENIED**.

Background

This action began on November 4, 2019, when the Court granted the ex parte application of the State Insurance Commissioner to become the Conservator of Respondent California Insurance Company (“Respondent” or “CIC”). (Order Approving the California Insurance Commissioner as Conservator and Restraining Order, filed on November 4, 2019.) The Court further granted the request of the Insurance Commissioner (the “Commissioner” or “Conservator”) for restraining orders against Respondent, explaining that CIC had flouted California regulatory practices by marketing illegal products, including a Reinsurance Participation Agreement (“RPA”), and alleging that Respondent’s attempted merger with an out-of-state insurance entity would effectively transfer CIC without obtaining the Commissioner’s approval as required by law. The outcome of that merger potentially would have impacted all CIC policyholders in California because, after the merger, their policies would be held by a nonadmitted insurer and therefore would be worthless.

After hearings on July 25, 2023, and August 23, 2023, this Court issued its Final Statement of Decision and Order after Hearing 8-23-23 (the “Plan Order,” entered on April 3, 2024), granting the Commissioner’s Application and Application for Order Approving Rehabilitation Plan.

On June 3, 2024, Respondent CIC filed a Notice of Appeal of Final Statement of Decision and Order, appealing from the Plan Order. The Court of Appeal affirmed this Court’s imposition of, and refusal to vacate, the conservatorship, as well as its approval of the Rehabilitation Plan, including the Rehabilitation Plan’s provisions requiring CIC to settle litigation and requiring CIC’s policies in California to be reinsured by another company. (Opinion, Case No. A170622, filed in the instant action on June 27, 2025; see also Remittitur, filed on December 1, 2025.)

Through its Motion for an Order Recognizing Air-Sea as a “Claimant,” Etc. (the “Motion”), Interested Party Air-Sea Packing Group, Inc. (“Movant”) seeks an order recognizing it as a “Claimant” with “Pending Litigation” pursuant to section 2.6 of the Commissioner’s Rehabilitation Plan and directing the Rehabilitation Plan’s

Independent Consultant to include it in the settlement election process contemplated by Schedule 2.6.
(Motion, 1:27-2:2.)

The Motion Is DENIED.

This Court (see, e.g., Final Statement of Decision and Order after Hearing 8-23-23 (the “Plan Order”), filed on April 3, 2024, 17:13-15), the Court of Appeal upholding this Court’s Plan Order, and other courts and states have recognized that Respondent CIC repeatedly has acted illegally. (See, e.g., Remittitur, filed on December 1, 2025 (discussing Respondent “CIC’s demonstrated willingness to flout the law for its own financial gain” at p. 29, & passim).) This Court’s opinion, and the Court of Appeal’s affirmance of that opinion, recount numerous ways in which Respondent CIC has ignored its duties under the law and sought to evade regulation. The Court is concerned that it may be appropriate for the remedies of Schedule 2.6 of the Rehabilitation Plan (a conformed copy of which is shown at Stipulation and Order, filed on May 26, 2026, Att. 1) to be available to New York policyholders such as Movant.

However, the instant Motion is not a mechanism that can provide such a remedy. Having considered all of the papers filed in relation to the Motion, the Court confirms that it invited the Commissioner to apply to amend the Plan, rather than inviting motions such as this one to include New York policyholders in the Schedule 2.6 process piecemeal. This is consistent with the face of the Plan Order (Plan Order, 42:13-15) and with the Conservator’s role as a fiduciary bound to act in the interests of many—which Movant is not—and avoids further motions from others similarly situated to Movant. It is the Conservator’s role to make the application invited by this Court to seek the remedy that should be available to Movant and to others similarly situated. In doing so, the Commissioner should “include[e] citation of authority showing that Schedule 2.6’s remedies represent remedies available under New York law,” as directed by this Court (*id.*, 42:14-15), more specifically than Movant has done in the instant Motion.

The Plan Order states:

Finally, with respect to New York’s request that the remedies for Schedule 2.6 be made available to its policyholders engaged in litigation over the RPA, given the Commissioner’s oversight, the Court will not entertain that request at this time. If the Commissioner wishes to propose New York’s inclusion, he may make a subsequent application for amendment of the plan, including citation of authority showing that Schedule 2.6’s remedies represent remedies available under New York law.

(Plan Order, 42:11-15 (emphasis added).) On its face, this language requires the Commissioner, also referred to as the Conservator, to apply to amend the Rehabilitation Plan.

Here, by contrast, a proposed claimant from New York is asking to be recognized as a Claimant under Schedule 2.6. The Conservator filed his own Response to the Motion (the “Conservator’s Response,” filed on May 21, 2026), stating that he informed Movant that it is his position that Movant is not a Claimant. (Conservator’s Response, 5:11-13.) However, the Conservator expressly does not oppose the proposed claimant’s Motion and supports Movant’s inclusion in Schedule 2.6, asserting that, “While the Court envisioned that such an application would be brought by the Commissioner as Conservator of CIC, the Plan Order did not preclude such an application by a policyholder.” (Conservator’s Response, 4:24-25.)

However, the instant Motion is materially different from an amendment to the Plan, as Movant acknowledges. (Reply, 4:23-24 [“Air-Sea is not exercising the Commissioner’s statutory powers; it is seeking relief from this Court.”].) It is the role of the Conservator, the fiduciary charged with administering the Rehabilitation Plan, to apply to the Court to amend the Rehabilitation Plan as to all New York policyholders. It is not the role of the Court to grant or deny access to the Schedule 2.6 process on a case-by-case basis.

Movant asserts that the Conservator has now sought the amendment contemplated by the Plan Order by affirmatively endorsing Movant’s request and making the policy showing that Respondent CIC claims is required. In fact, the Conservator expressly “notes that Air-Sea has provided its authorities on the issue of whether the remedies under Schedule 2.6 are consistent with remedies available under New York law,” making no showing of his own. (Conservator’s Response, 6:2-3.) Meanwhile, Movant cites authorities generally reflecting restitution under New York law, rather than showing that New York law provides the remedies available under Schedule 2.6.

The Conservator’s Response to the Motion supplies persuasive arguments that Movant and those similarly situated should be included in the Schedule 2.6 process. It is unclear why the Conservator has not made the application contemplated by this Court.

Accordingly, the motion is **DENIED**.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Respondent shall prepare for the Court’s signature a written order consistent with the Court’s ruling, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. The Court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.