

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

MAY -9 2014

TIM RHODES  
COURT CLERK

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STATE OF OKLAHOMA, ex rel.  
JOHN DOAK, in his capacity as Insurance  
Commissioner and as Receiver  
for Driver's Insurance Co.,

Plaintiff,

v.

DRIVER'S INSURANCE COMPANY, a licensed domestic  
insurer in the State of Oklahoma, in Receivership,

Defendant.

Case No. CJ-2013-694

Judge Bryan C. Dixon

**RECEIVER'S FIRST REPORT ON CLAIMS EVALUATION AND REQUEST  
FOR CONFIRMATION OF RECEIVER'S RECOMMENDATION**

The State of Oklahoma, ex rel., John Doak, Insurance Commissioner, as Receiver for Driver's Insurance Company, in liquidation, ("Driver's") by and through the undersigned attorney of record, and pursuant to the Oklahoma Uniform Insurers Liquidation Act, OKLA. STAT. tit. 36, § 1901, *et seq.* ("OUILA"), hereby files this First Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendations and shows the Court as follows:

1. On May 13, 2013, this Court entered its "Order of Liquidation with Finding of Insolvency" for Driver's.
2. By virtue of the Court's Order, title to all property of Driver's was vested in the Receiver and the Receiver was charged with the duty of marshalling Driver's assets, liquidating those assets and distributing all remaining assets in accordance with the statutory prioritization of the allowed claims.
3. The Court further directed the Receiver to notify all persons who have claims against Driver's of the claims filing bar date, in a form approved by the Court. On June 7, 2013, the Court

entered an Order Approving the Proof of Claim Form, and on October 18, 2013, the Court entered an Order Approving the Revised Claims Evaluation Plan, and established the claims filing bar date of January 10, 2014.

4. Pursuant to OKLA. STAT. tit. 36, § 1930, the Receiver took all reasonable efforts to determine the identify of all persons who may have claims against the Estate and to provide them with notice to allow them the opportunity to file a claim before the January 10, 2014 claims bar date.

5. The Receiver distributed 15,177 notices of liquidation to potential claimants. Additionally, notice of the proof of claim process and the availability of the proof of claim packets was published on June 14, 2013 on the Oklahoma Receivership Office website, and then updated after the October 18, 2013 Order.

6. On October 18, 2013, the Court entered an Order Approving the Revised Claims Evaluation Plan establishing March 10, 2014, as the date by which the Receiver must file his Report of Timely Filed Claims.

7. On March 10, 2014, the Receiver filed the Receiver's Report on Timely Filed Claims. The Receiver's report stated that 1,207 timely proofs of claim were filed with the Receiver with an aggregate submitted amount of \$57,040,554.14. The Guaranty Association claim amount is currently undetermined.

8. Since the Receiver's March 10, 2014 Report on Timely Filed Claims, an additional 69 late filed proofs of claim have been received.

9. The majority of claims<sup>1</sup> filed against the Driver's Estate consist of Class 3 claims. Pursuant to OKLA. STAT. tit. 36, § 1927.1, Class 3 claims include:

All claims under policies including claims of the federal or any state or local government for losses incurred ("loss claims") including third party claims, claims for unearned premiums, all claims of a guaranty association for payment of covered claims or covered obligations of the insurer and all claims of a guaranty association for reasonable expenses other than those included in Class 2. All claims under life and health insurance and annuity policies, whether for death proceeds, health benefits, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee shall be treated as gratuity.

10. No Class 3 claims are ready for adjudication at this time. The Receiver will file additional reports as Class 3 claims are ready for adjudication.

11. Four Class 6 claims are ready for adjudication at this time. Pursuant to OKLA. STAT. tit. 36, § 1927.1, Class 6 includes "[c]laims of any person, including claims of state or local governments, except those specifically classified elsewhere in [section 1927.1]." The Class 6 claims included in this Report are only a portion of the Class 6 claims to be adjudicated. As other Class 6 claims become ready for adjudication, the Receiver will file additional reports.

12. The Receiver has not completed marshalling all assets of Driver's.

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<sup>1</sup> Court review and approval of the Receiver's recommendations regarding Class 1 claims occurs on a regular basis and is not therefore included in this Report. The Receiver will, at the appropriate time, submit the Receiver's recommendations regarding Class 2 claims in this estate.

13. This Report does not address the actual distribution of assets that may ultimately be made to creditors and beneficiaries of Driver's. Neither the Receiver's recommendation that a claim be allowed in a certain amount, nor the Court's Order allowing a claim, ensures that the claim will be paid in whole or in part. Payment of an allowed claim is contingent upon: (a) the assets available to the estate for payment of claims; (b) the class of the claim allowed; and (c) whether the assets of the estate are sufficient to pay in full all allowed claims and all classes of claims.

#### EXPLANATION OF RECEIVER'S RECOMMENDATION

14. Attached hereto as Exhibit 1 is a report detailing the Receiver's recommendation on the Class 6 claims that are ready for adjudication. The table below is a summary of the Receiver's recommendations with respect to the Class 6 claims that are ready for adjudication:

Class	Claimed	Recommended Allowance	Recommended Denial
6	\$106,626.22	\$2,280.25	\$104,345.97

15. The attached Exhibit 1 refers to the Receiver's recommendations as to the Class 6 claims that are ready for adjudication. The Receiver has analyzed the claims reflected on Exhibit 1 and recommends that each of the claims be classified as a Class 6 claim for purposes of OKLA. STAT. tit. 36, § 1927.1.

16. The "Amount Claimed" column on Exhibit 1 reflects the amount that the Class 6 claimant has sought through the particular claim. The "Amount Allowed" column sets forth the amount the Receiver recommends that the Court allow as to the particular Class 6 claim.

17. The Proof of Claim form filed by each claimant contains the following language in bold type: "If you have a change of address, you are required to inform the receiver of the new address in order to receive any payment that might be due." To the extent any Notice of this

proceeding is returned undeliverable, the Receiver asks the Court to find that the due process rights of the claimant have not been impaired and to order the denial of their claim without further attempts to give actual notice.

18. Pursuant to OKLA. STAT. tit. 36, § 1918, the Receiver requests the Court to set a hearing on the claims and establish a certain date certain for filing an objection to the Receiver's recommendation. Attached hereto as Exhibit 2 is the Receiver's proposed form of notice of hearing to be provided to claimants made the subject of this Report.

19. The denial of any timely-filed proof of claim included in the Receiver's Report does not alter the statutory obligation, if any, of the applicable state guaranty funds to provide indemnity and defense of a covered claim as defined by the Oklahoma Property & Casualty Insurance Guaranty Association Act, OKLA. STAT. tit. 36, § 2004(7), or other applicable state statutes.

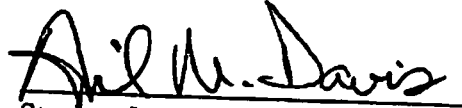
20. The Receiver's characterization of a claim or payment does not constitute an admission of liability by Driver's for purposes of any litigation.

WHEREFORE, the Receiver respectfully requests that this Court:

- a. order that the Receiver provide notice of opportunity to object and be heard to each of the claimants making a claim reflected on Exhibit 1 attached to this Report and find that the proposed form of notice attached hereto as Exhibit 2 is proper in all respects;
- b. establish a date for filing an objection to the recommendations of the Receiver;
- c. establish a date for hearing the Receiver's recommendations to the Court and any objections thereto;
- d. upon hearing any objections thereto, enter an order approving the Receiver's Report and confirming the Receiver's recommendation as to each of the claims described herein; and

- e. grant the Receiver such other and further relief as the Court deems appropriate.

Respectfully submitted,



Stephen Jones, OBA #4805  
April McCurdy Davis, OBA #17854  
JONES, OTJEN & DAVIS  
P.O. Box 472  
114 E. Broadway, Suite 1100  
Enid, Oklahoma 73702-0472  
(580) 242-5500 (phone)  
(580) 242-4556 (fax)  
sjones@stephenjoneslaw.com

AND

Barron Brown, OBA #31346  
OKLAHOMA INSURANCE DEPARTMENT  
3613 NW 56<sup>th</sup>, Suite 330  
Oklahoma City, OK 73112  
(405) 521-2828 (phone)  
(405) 522-0125 (fax)  
Barron.brown@oid.ok.gov

ATTORNEYS FOR PLAINTIFF,  
STATE OF OKLAHOMA, ex rel.  
JOHN DOAK, INSURANCE  
COMMISSIONER for the State of Oklahoma,  
as Receiver for Driver's Insurance Company

**CERTIFICATE OF MAILING**

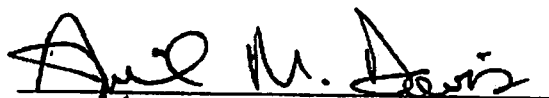
I hereby certify that I have this 9<sup>th</sup> day of May, 2014, mailed a true and correct copy of the above and foregoing document with proper postage prepaid thereon to:

Stephen Jones  
JONES, OTJEN & DAVIS  
114 E. Broadway, Suite 1100  
Enid, Oklahoma 73701

John Ratzel  
National Guaranty Insurance Company  
11330 Lakefield Drive, Suite 200  
Duluth, Georgia 30097

Oklahoma Receivership Office  
Attn: Debra L. Crowe  
3613 NW 56th, Suite 330  
Oklahoma City, OK 73112

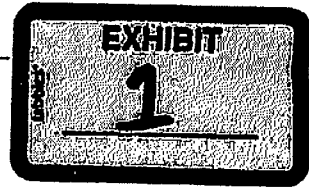
Paul Wilkening, Legal Division  
Oklahoma Insurance Department  
3625 NW 56th Suite 100  
Oklahoma City, OK 73112

  
\_\_\_\_\_  
April M. Davis

# Claims Allowed By Class

Claim Class: 6

POC #	Amount Claimed	Amount Allowed	
1969	\$2,130.25	\$2,130.25	Timely Filed? <u>Yes</u>
2125	\$150.00	\$150.00	Timely Filed? <u>Yes</u>
<b>Class 6 Totals:</b>	<b>\$2,280.25</b>	<b>\$2,280.25</b>	
<b>Total Claims:</b>	<b>\$2,280.25</b>	<b>\$2,280.25</b>	





# Claims Denied By Class

**Claim Class: 6**

<b>POC #</b>	<b>Amount Claimed</b>	<b>Amount Allowed</b>		
1428	\$24,646.68	\$0.00	Timely Filled?	<u>Yes</u>
1174	\$79,699.29	\$0.00	Timely Filled?	<u>Yes</u>
<b>Class 6 Totals:</b>	<b>\$104,345.97</b>	<b>\$0.00</b>		

**Total Claims:**            \$104,345.97            \$0.00

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
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JOHN DOAK, in his capacity as Insurance  
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Judge Bryan C. Dixon

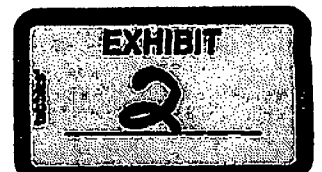
**NOTICE OF HEARING ON THE RECEIVER'S FIRST REPORT ON CLAIMS  
EVALUATION AND REQUEST FOR CONFIRMATION  
OF RECEIVER'S RECOMMENDATION**

You are hereby notified that on [date] a hearing will be held before the Honorable Bryan C. Dixon, District Court Judge of Oklahoma County, Oklahoma, at which time the Receiver's First Report on Claim Evaluation and Request for Confirmation of Receiver's Recommendation shall be heard. The hearing will be conducted at the Oklahoma County Courthouse, 321 Park Avenue, Room #821, Oklahoma City, Oklahoma.

You are receiving this Notice because the Receiver has evaluated your claim and such claim is ready for adjudication. The Exhibit attached to this Notice sets forth the Receiver's recommendations to the Court in relation to your claim.<sup>1</sup> Your claim has been assigned the Proof of Claim number (POC#) indicated on the attached Exhibit. The attached Exhibit also provides

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<sup>1</sup> The Receiver's recommendation to the Court regarding your claim and other claims set for hearing on the referenced hearing date are set forth in the Receiver's Report, which was filed in the above-referenced matter on May 9, 2014. A copy of the Receiver's Report is available on the website for the Oklahoma Receivership Office at [www.okaro.org](http://www.okaro.org).



information specific to your claim including the amount of your claim, the Receiver's recommendation as to the amount of your claim to be allowed, if any, and the Receiver's recommendation regarding the classification of your claim, which classification reflects the nature of your claim and the priority the Receiver recommends be given to your claim under Oklahoma law, OKLA. STAT. tit. 36, § 1927.1.

**IF YOU DO NOT WISH TO OBJECT TO THE RECEIVER'S RECOMMENDATION, YOU ARE NOT REQUIRED TO TAKE ANY ACTION AT THIS TIME.** IF YOU WISH TO OBJECT TO THE RECEIVER'S RECOMMENDATION, YOU MUST FILE A PROPER, WRITTEN OBJECTION WITH THE COURT NO LATER THAN [DATE]. To be a proper, written objection:

- (1) the objection must contain the case information located at the top of this Notice (State of Oklahoma, ex. rel. John Doak, Insurance Commissioner v. Driver's Insurance Company Case No. CJ-2013-694, Judge Bryan Dixon);
- (2) the objection must be filed with the Clerk of the Oklahoma County District Court, 320 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102, and a copy mailed to the Receiver's counsel at the address show below;
- (3) the objection must be signed by the claimant or the claimant's representative;
- (4) the objection must be typewritten on a good grade of which paper size 8 ½ by 11 inches, given the name, current address and telephone number of the claimant making the objection, including the name and position of the person signing the objection, if the claimant is a business; and
- (5) the objection must state the exact grounds on which the objection is based and be accompanied by a concise brief that contains (a) a written statement of material facts as to which the objecting party contends no genuine issue exists verified by a person with knowledge of the facts; (b) references to supporting documentation submitted with the proof of claim; and © citation to applicable authority supporting the objection;

- (6) if you wish to present the Court with oral argument on your objection at the hearing, the objection must indicate your attention to appear at the hearing and make such oral argument. Failure to expressly state an intention to make oral argument in your objection may be deemed by the Court to be a waiver of the right to oral argument.

*Failure to file a timely and proper written objection as described above may result in your objection being denied.* If the Court approves your claim in whole or in part, it does not mean that you will actually receive the allowed amount as ordered by the Court. The amount of payment on your claim, if any, is dependent upon the class or priority the Court assigns your claim based on Oklahoma law, and the assets in the estate available for payment. Certain legal matters still pending before the Court may prevent the payment of claims for some time. Any questions regarding this Notice, the Receiver's Recommendations as to your claim or any of the other claims to be heard during the hearing on the date referenced above should be directed to the Assistant Receiver's Office. Contact information for the Assistant Receiver is set forth below.

**Assistant Receiver**

Terry Smith, Assistant Receiver  
Driver's Insurance Company in Receivership  
3613 NW 56th Suite 330  
Oklahoma City, OK 73112  
(405) 947-0022 (phone)  
(405) 947-0046 (fax)

**Receiver's Counsel:**

Stephen Jones  
April Davis  
JONES, OTJEN & DAVIS  
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(580) 242-5500 (phone)  
(580) 242-4556 (fax)