

CAUSE NO. D-1-GN-19-000723

THE STATE OF TEXAS  
*Plaintiff,*

v.

CAPSON PHYSICIANS INSURANCE  
COMPANY,  
*Defendant.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

250<sup>TH</sup> JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S APPLICATION TO REQUIRE ELECTRONIC SERVICE OF PLEADINGS AND NOTICES**

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company (the “SDR” and “CPIC,” respectively), files its *Application to Require Electronic Service of Pleadings and Notices* (the “Application”).

**I. INTRODUCTION**

1. The SDR seeks Court authority to require all parties to serve pleadings and notices in this receivership by e-mail because it will save the estate money and provide for timely service to parties at interest. The SDR further requests authority to serve certain pleadings and notices, at its discretion, by any other means authorized by TEX. INS. CODE § 443.007, the Texas Rules of Civil Procedure, or other order of this Court.

**II. BACKGROUND**

2. On February 11, 2019, the Court entered an *Agreed Order Appointing Rehabilitator, Permanent Injunction, and Notice of Automatic Stay* appointing the Texas Commissioner of Insurance as Receiver for Rehabilitation (the “Rehabilitator”). Effective February 11, 2019, the Texas Commissioner of Insurance, as Rehabilitator, designated CANTILO & BENNETT, L.L.P. as Special Deputy Receiver of CPIC.

3. The SDR is authorized to file this Application pursuant to TEX. INS. CODE § 443.008, which provides that this Court may issue any order as necessary or appropriate to carry out the provisions of the Insurer Receivership Act. The matter has been referred to the Special Master appointed by the Order of Reference to Master entered on February 21, 2019 in this proceeding.

### **III. RELIEF SOUGHT**

4. TEX. R. CIV. P. 21a governs methods of service. It expressly states that, in addition to service by mail or fax, notice may be provided by “such other manner as the court in its discretion may direct.”

5. The SDR moves the Court to order all parties at interest filing any pleading, plea, motion, application to the court for an order, notice and/or any other matter required to be served in this case to serve such documents by e-mail. The SDR proposes that it, through its undersigned counsel, maintain e-mail addresses for all parties at interest and parties requesting notice in this case. SDR shall be responsible for providing a copy of this Court’s Order regarding service and the current list of e-mail addresses to all parties upon their appearance.

6. To the extent that a party at interest, party requesting notice, or any other individual or entity seeking to file in this Receivership Proceeding cannot provide service by e-mail or deems it necessary to use an alternative method of service, it may file a motion for leave of court seeking to use some other authorized method of service at the time it files the document with the Court.

7. E-mail service will allow the estate and all interested parties to save money on postage. It should provide for more timely and efficient delivery of pleadings and documents and will enable parties to be sure of their delivery and receipt.

8. Pursuant to TEX. INS. CODE § 443.007, the SDR shall, from time to time, require

that any person or entity currently, or in the future, on the Service List for this estate to confirm that they desire to remain on the Service List and to provide an e-mail address for future service.

#### **IV. NOTICE**

9. The SDR has served this application to all known parties at interest by regular mail, e-mail, fax, hand delivery and/or overnight delivery.

#### **V. OFFER OF PROOF AND VERIFICATION**

10. This Response is verified as required by the Texas Rules of Civil Procedure by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Joseph N. West, Partner in CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company, respectfully requests that this Court:

1. Grant this Application;
2. Order that all parties at interest and parties requesting notice provide an e-mail address to the undersigned counsel to the SDR;
3. Order that all parties at interest and parties requesting notice serve by e-mail all pleadings, pleas, motions, applications to the court for an order, notices and any other matter required to be served;
4. Order that the SDR, by the undersigned counsel, maintain a current list of e-mail addresses for all parties and provide said list to all new parties;
5. Order the SDR to post on the CPIC estate website all documents filed in this receivership proceeding; and
6. Grant the SDR such other and further relief to which it may be justly entitled.

Respectfully submitted,

/s/ Greg Pierce  
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-and-

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**Attorneys for CANTILO & BENNETT, LLP,  
Special Deputy Receiver of  
Capson Physicians Insurance Company**

**CERTIFICATE OF SERVICE**

I certify that on March 18, 2019, a true and correct copy of the foregoing *Application to Require Electronic Service of Pleadings and Notices* was served pursuant to the Order of Reference to Master, the Texas Rules of Civil Procedure and TEX. INS. CODE 443.007(d) on the following by email, except as specifically otherwise noted.

***Via Email:*** [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov)  
Special Master's Clerk  
Rehabilitation & Liquidation Oversight  
TEXAS DEPARTMENT OF INSURANCE  
PO Box 149104  
Austin, Texas 78714-9104

***Via e-Service:*** [James.Kennedy@tdi.texas.gov](mailto:James.Kennedy@tdi.texas.gov)  
James Kennedy  
TEXAS DEPARTMENT OF INSURANCE  
PO Box 149104  
Austin, Texas 78714-9104

***Via Email:*** [John.Alexander@tdi.texas.gov](mailto:John.Alexander@tdi.texas.gov)  
John Alexander  
Rehabilitation & Liquidation Oversight  
TEXAS DEPARTMENT OF INSURANCE  
P.O. Box 149104  
Austin, Texas 78714-9104

***Via Email:*** [kathy.gartner@tdi.texas.gov](mailto:kathy.gartner@tdi.texas.gov)  
Kathy Gartner  
Rehabilitation & Liquidation Oversight  
TEXAS DEPARTMENT OF INSURANCE  
P.O. Box 149104  
Austin, Texas 78714-9104

***Via e-Service:*** [Kaitlyn.Yost@oag.texas.gov](mailto:Kaitlyn.Yost@oag.texas.gov)  
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*Counsel for Plaintiff State of Texas*

***Via e-Service:*** [jthompson@thompsoncoe.com](mailto:jthompson@thompsoncoe.com)  
Jay A. Thompson  
THOMPSON COE  
701 Brazos, Suite 1500  
Austin, Texas 78701  
*Counsel for Defendant*  
*Capson Physicians Insurance Company*

/s/ Greg Pierce  
Gregory A. Pierce

## APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Order of Reference to Master entered by the District Court in this cause, the SDR's *Application to Require Electronic Service of Pleadings and Notices* is hereby set for written submission before the Special Master, Tom Collins, on April 1, 2019.

The Special Master has asked that the following rules be provided you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by email by such date on:
  - (a) The Special Master's Docket Clerk, at [specialmasterclerk@tdi.texas.gov](mailto:specialmasterclerk@tdi.texas.gov);
  - (b) The undersigned counsel, Greg Pierce at [gpierce@gpiercelaw.com](mailto:gpierce@gpiercelaw.com); and
  - (c) All interested parties, including those listed on the SDR's Certificate of Service.
3. The objecting party shall coordinate with the SDR's counsel and the Docket Clerk [(512) 676-6915]] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
5. **Please note that if an objection is not filed as described in the Notice of Submission, the Master may consider the Application without a hearing.**
6. **Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.**
7. Any Acknowledgment of Notice and Waiver to be filed by the Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/ Greg Pierce  
Gregory A. Pierce

