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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**CLARK COUNTY, NEVADA**

STATE OF NEVADA, EX REL. COMMISSIONER  
OF INSURANCE, IN HER OFFICIAL CAPACITY  
AS STATUTORY RECEIVER FOR DELINQUENT  
DOMESTIC INSURER,

Plaintiff(s),

vs.

LANCET INDEMNITY RISK RETENTION  
GROUP, INC., a Nevada Domiciled Association  
Captive Insurance Company,

Defendant.

Case No. A-19-791409-B

Dept. No. 16

HEARING REQUESTED

**MOTION FOR INSTRUCTIONS ON ORDER SHORTENING TIME**

COMES NOW, Barbara D. Richardson, Commissioner of Insurance (“Commissioner”) and Receiver (“Receiver”), and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”), by and through the undersigned counsel of record, pursuant to Nevada Revised Statute (“NRS”) 696B.220, and respectfully moves this Court for instructions specifying notice requirements relating to the anticipated filing of a Motion seeking a Final Order of Liquidation and approval of the claims process

1 and claims filing deadline; any orders issued relating to the same; and notice required regarding  
2 subsequent filings. The term "Receiver" herein refers collectively to the Receiver and SDR.

3 This Motion for Instructions is based on these papers and any oral argument requested by the  
4 Court and a hearing is requested on shortened time to expedite the process that will allow claims to  
5 be submitted and processed.

6 Dated this 20<sup>TH</sup> day of December 2019.

7 AARON FORD  
8 Attorney General

9 By: /s/ Richard P. Yien  
10 Richard P. Yien (Bar No. 13035)  
11 Deputy Attorney General  
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**DECLARATION OF RICHARD P. YIEN, ESQ. IN SUPPORT OF  
MOTION FOR INSTRUCTIONS ON ORDER SHORTENING TIME**

STATE OF NEVADA                    )  
  ) ss:  
COUNTY OF CLARK                 )

I, Richard P. Yien, hereby declare:

1. I am an attorney of record for Plaintiff Barbara D. Richardson, Commissioner of Insurance (“Commissioner”) and Receiver (“Receiver”), and CANTILO & BENNETT, L.L.P., Special Deputy Receiver (“SDR”) in the above-captioned matter.

2. I am a Deputy Attorney General for the State of Nevada and am in good standing as a member of the Nevada Bar, and am admitted to practice before this Court.

3. I make this declaration in support of Plaintiff’s Motion for Instructions on Order Shortening Time (“Motion”).

4. Good cause exists to hear this Motion on shortened time as the Receiver is in the process of preparing and expects to file in the near future certain motions that will have a large impact on these proceedings and seeks clarification from the Court regarding what notice is required with the filing of the same.

5. Specifically, the Receiver intends to file a Motion seeking a final order of liquidation of Lancet as well as a Motion setting the claims filing deadline and seeking approval of forms related to the same.

6. The Receiver seeks approval of proposed notice requirements in advance of filing the related motions in an effort to be transparent and to ensure the Court is satisfied with the proposed notice in advance of the filings, and to allow the Receiver to be sufficiently prepared to effectuate the required service.

1 7. As the motions described above are of great import to the case and will allow for a  
2 mechanism for policyholders and parties owed money from Lancet to submit claims for review and  
3 approval, it is reasonable for this Court to set a hearing relating to the notice deadlines to avoid  
4 unnecessary delay and to allow the claims process to move forward forthwith.

5 8. On behalf of the Receiver, I respectfully request that this Motion be set for hearing on  
6 shortened time.

7 I declare under penalty of perjury that the foregoing statements are true and correct to the best  
8 of my knowledge and belief.

9 DATED this 13<sup>th</sup> day of December 2019.

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13 RICHARD P. YIEN, ESQ.  
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1 **I. Background**

2 Lancet Indemnity Risk Retention Group (“Lancet” or the “Company”) is an association  
3 captive insurance company organized under the insurance laws of Nevada and the Liability Risk  
4 Retention Act of 1986. Lancet received its Amended Certificate of Authority on November 19, 2008,  
5 and operates under the authority of NRS Chapter 694C. Lancet was focused in the medical  
6 professional liability line and was formed to insure the medical professional liability of its physician  
7 and medical group members. Pursuant to NRS 679A.160, Lancet is subject to Nevada laws in  
8 Chapters 694C and 695E that pertain to captive insurers (as “captive insurer” is defined in NRS  
9 694C.060) and risk retention groups (as “risk retention group” is defined in NRS 695E.110) that have  
10 a Certificate of Authority from the Division of Insurance. Lancet is considered an association captive  
11 insurer (as “association captive insurer” is defined in NRS 694C.050). As a risk retention group  
12 (“RRG”), Lancet is subject to the federal Liability Risk Retention Act of 1986. RRGs domiciled in  
13 Nevada do not participate in the Nevada Guaranty Association. Pursuant to NRS 695E.140(1)(a),  
14 Lancet is also subject to all laws that pertain to traditional liability insurers (with exceptions given in  
15 Bulletin 14-008).

16 The Commissioner filed her Verified Petition for Appointment of Commissioner as Receiver  
17 and Other Permanent Relief on March 19, 2019. On April 12, 2019, this Court entered its Permanent  
18 Injunction and Agreed Order Appointing Commissioner as Permanent Receiver of Lancet Indemnity  
19 Risk Retention Group (the “Permanent Receivership Order”). The Commissioner, in her capacity as  
20 Receiver for Lancet, appointed the firm of CANTILO & BENNETT, L.L.P. as the Special Deputy  
21 Receiver (“SDR”) of Lancet, in accordance with NRS 696B. The term “Receiver” herein refers  
22 collectively to the Receiver and SDR.

23 The Receiver is in the process of preparing, and expects to file in the near future, certain  
24 motions that will have a large impact on these proceedings. Specifically, the Receiver intends to file  
25 a Motion seeking a final order of liquidation of Lancet as well as a Motion setting the claims filing  
26 deadline and seeking approval of forms related to the same. Due to the import of such motions and  
27 the anticipated orders that will follow, the Receiver is seeking through the instant motion approval of  
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1 notice requirements associated with the same and clarification regarding notice requirements going  
2 forward.

## 3 **II. Argument, Grounds for Instant Motion, and Proposed Notice**

4 This Court has original jurisdiction of the subject matter of this action pursuant to NRS 696B.  
5 NRS Chapter 696B deals with the conservation, rehabilitation, and liquidation of delinquent insurers  
6 such as Lancet. NRS Chapter 696B provides that notice should be given to creditors of the time to  
7 file claims (*i.e.*, the claims filing deadline), and the chapter also provides guidance regarding the  
8 notices required for claim determinations and the appeals of such determinations.<sup>1</sup> NRS Chapter  
9 696B does not specify what, if any, notice is required of the filing of a motion for liquidation and a  
10 motion to approve the Receiver's proposed claims and appeals procedures. The Receiver has filed  
11 this Motion in advance of those described above in order to first assure the Court's satisfaction with  
12 the transparency and due process of these proceedings. The Receiver seeks the Court's approval of  
13 the proposed notice procedures described herein.

### 14 **A. Notice of Certain Motions**

15 Based on the foregoing, the Receiver proposes to provide service of the Motion for  
16 Liquidation and the Motion for Approval of the Claims Deadlines and Claims Process to: (1) all  
17 individuals and interested parties denoted on this Motion's certificate of service list in the means  
18 specified; and (2) posting a copy of the same on the Company's web site  
19 (<https://www.lancetindemnity.com>). This will allow all parties that have requested notice of filings  
20 to have advance notice of the hearing(s) on the aforementioned motions. Additionally, posting a copy  
21 of the Motion and Notice of Hearing on Lancet's web site will provide sufficient notice to the public.

22 Notably, Lancet's web site is already online and accessible to the public, and receivership  
23 information is being routinely posted to this web site. By utilizing notice via web site, the receivership  
24 estate will save thousands of dollars and avoid notifying thousands of parties that may have little to  
25 no further interest in the affairs of Lancet and specifically the filed motions. The Receiver has been,  
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27 <sup>1</sup> NRS 696B.330; NRS 696B.460.

1 and intends to continue, posting on the web site relevant documents and notice of significant  
2 receivership developments, including updates of relevant court filings and orders.<sup>2</sup>

3 The Receiver requests that this same notice process be approved in regard to future briefs  
4 submitted to the Court by the Receiver.

5 **B. Notice for Final Orders of Liquidation, and Claim Procedures and Forms**

6 Any final orders issued by the Court placing Lancet into Liquidation and approving the claims  
7 deadline and claims process (including any receivership appeal process) will be served by:  
8 (1) mailing and/or e-mailing notice to the categories of persons described below; (2) by newspaper  
9 publication; and (3) through the Company's web site.<sup>3</sup> The Receiver believes that providing service  
10 of these orders, in the manner described below, would be fair, reasonable, and sufficient, and would  
11 comport with the requirements of Nevada law and due process.

12 **1. Notice by Mail and E-mail**

13 When final orders are obtained relating to liquidating Lancet and setting forth the claim  
14 procedures and deadlines, the Receiver proposes that notice of the Order be sent by First Class U.S.  
15 mail as follows:

- 16 a. All known persons identified as actively insured by Lancet on the date of  
17 receivership;
- 18 b. All known persons identified as ever having previously been insured by a  
19 Lancet policy;
- 20 c. All persons identified as having submitted claims to Lancet or its third-party  
21 claims administrator that have, as of the date of receivership, not been resolved  
22 and/or settled;
- 23

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24 <sup>2</sup> This request to approve notice by posting on the web site does not extend to parties already on (or to be added  
25 later) to the existing case service list, the posting of claimant-specific notices of claim determinations, or requests or  
26 responses concerning specific appeals, or claim-specific payment information. Notices for these specific parties and  
27 instances will be sent by First Class and/or Certified U.S. Mail, where possible.

28 <sup>3</sup> The SDR anticipates filing both the Motion seeking liquidation and the Motion seeking approval of the claims  
process simultaneously in hopes that any subsequent orders will be entered at or near the same point in time to allow  
notice to be accomplished in one mailing and/or publication to conserve estate assets and resources.

- 1           **d.**     All attorneys currently or previously representing claimants or insureds of
- 2   Lancet;
- 3           **e.**     All known present and former agents, brokers, and reinsurers of the company;
- 4           **f.**     All known general creditors and vendors;
- 5           **g.**     Government agencies with potential or known claims against Lancet, including
- 6   the Internal Revenue Service, the Centers for Medicare and Medicaid Services,
- 7   the United States Department of Justice, the Nevada Attorney General, and any
- 8   other regulatory departments and agencies which have corresponded with
- 9   Lancet and mentioned pending claims;
- 10          **h.**     Financial institutions with a history of business with Lancet; and
- 11          **i.**     All other persons who request in writing to receive this notice or information
- 12   regarding the receivership claim process.

13           The Receiver wrote in the First Status Report to the Court that Lancet considered itself a  
14 “virtual company” (*i.e.*, paperless). Lancet had no office space of its own, and there were no physical  
15 files that the Receiver could take possession of to immediately secure the bulk of the Company’s  
16 records. Instead, the bulk of the available records have been retrieved by the Receiver from Lancet’s  
17 third-party contractors, and this extends to address lists and contact information for Lancet’s  
18 interested parties. It is unlikely that Lancet’s address lists are complete or one-hundred percent  
19 accurate. Lancet has only e-mail addresses, and no other contact information, for many of its  
20 interested parties such as brokers.

21           The Receiver has worked to further develop and improve the Company’s address lists and has  
22 tracked contact information from the inquiries received since the outset of the receivership. The forms  
23 of notice described below are intended to compensate, to the extent reasonably possible, for any gaps  
24 and/or errors in the Company’s records. Whenever possible, the Receiver will send notice of any  
25 final orders relating to Lancet’s liquidation and claim procedures by First Class U.S. Mail. But when  
26 there is no mailing address available, the Receiver requests that this Court approve e-mail (in  
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1 combination with the methods of notice described below) as a sufficient form of notice of any Final  
2 Order.

3 **2. Notice by Publication**

4 The Receiver also proposes to cause publication of notice of final orders that are obtained  
5 relating to liquidating Lancet and setting forth the claim procedures and deadlines at least once a week  
6 for two (2) consecutive weeks in USA Today and the Las Vegas Review-Journal.

7 Such notice would be reasonably calculated to inform any unknown creditors of those matters  
8 and afford them an opportunity to file their claims with the Receiver. The notice would be in the  
9 form of the attached **Exhibit 1**. The Receiver requests, as part of the notice procedures approved by  
10 this Court, that notice of publication will serve as a substitute for any interested party of Lancet that  
11 does not receive actual and/or timely notice of the entry of this Court's order. Publication will begin  
12 within fifteen (15) business days after the Court has entered orders on the applicable motions.

13 **3. Notice Through the Company Web Site**

14 The Receiver proposes to provide notice of the Court's final orders relating to liquidating  
15 Lancet and setting forth the claim procedures and deadlines on Lancet's web site, and will post the  
16 same no later than five (5) business days after Notices of Entry of the requested orders are filed with  
17 the Court.

18 As stated above, the web site is already online and accessible to the public, and receivership  
19 information is being routinely posted to this web site.<sup>4</sup>

20 **III. CONCLUSION**

21 Mailing notice to all interested parties of Lancet is a costly endeavor and will require  
22 significant estate resources. The expense is justified when notifying parties of a significant change  
23 in the legal status of the estate (*i.e.*, liquidation) and the imposition of a claim procedures and filing  
24 deadlines, as these are matters that could significantly impact the rights of a large number of parties.  
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26 <sup>4</sup> The mailing, print publication, and web site publication notices will be similar except that non-substantive text  
27 edits and formatting adjustments will be made to make each notice conform to its applicable medium (for instance, the  
28 word "enclosed" in a mail notice may be changed to "see link below," for the web posting).

1 Requiring mailed notice to thousands of interested parties for *every* Motion and/or matter of requested  
2 relief before this Court, would create time and resource constraints, and financial drain on an already  
3 burdened receivership estate. The notice procedures outlined above are aimed at streamlining the  
4 notices of the estate, to balance the concerns of individuals interested in the affairs of Lancet against  
5 the need to manage Lancet's affairs in a timely, diligent, and cost-efficient manner for the benefit of  
6 all creditors of the estate. For these reasons, the Receiver submits respectfully that permitting web  
7 site notice, as set forth in this Motion, is appropriate and necessary.

8 Dated this 20<sup>TH</sup> day of December 2019.

9 AARON D. FORD  
10 Attorney General

11 By: /s/ Richard Yien  
12 RICHARD YIEN, Bar No. 13035  
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18 *Attorneys for the Division of Insurance*

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**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 805, I certify that on this 20<sup>th</sup> day of December, I caused a true and correct copy of the foregoing *Motion For Instructions on Order Shortening Time* to be filed and served electronically via the Court's Electronic Filing System upon all parties registered to this action and via regular mail on the parties listed below.

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/s/ Susan Messina  
Susan Messina, An employee of the  
Office of the Nevada Attorney General