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June 5, 2023

VIA PACER

Hon. Evelyn Padin
United States District Judge

Re: Michael L. Barisone v. Farm Family Casualty et al
Docket No.: 2:23-cv-02571-EP-JSA

Defendants Farm Family Casualty Insurance Company and American National Insurance
Company Request for Pre-Motion Conference

Hon. Judge Padin,

Pursuant to section II.E.i. of the Court's General Pretrial and Trial Procedures, Farm Family Casualty Insurance Company and American National Insurance Company respectfully request a pre-motion conference concerning the standing issue and plaintiff's incapacity.

At the appropriate time we will be requesting another conference regarding a motion to dismiss on behalf of American National Insurance Company, as the complaint fails to state a cause of action in that American National Insurance Company did not write the policies under which coverage is sought. As to Farm Family Casualty Insurance Company, permission to file a motion to dismiss along the lines stated in Great American Insurance Company of New York's Request For Pre-Motion Conference will also be filed.

Plaintiff commenced this action in the Superior Court in New Jersey. As it has been alleged in the complaint, the plaintiff was found not guilty by reason of insanity in the criminal trial and currently resides in a psychiatric facility.

New Jersey Court Rule 4:26-2 entitled "Minor or Incapacitated Person" provides in section (a) as follows:

Representation by Guardian. Except as otherwise provided by law or R. 4:26-3 (virtual representation), a minor or an adult who has been adjudicated incapacitated pursuant to R. 4:86-1 et seq. shall be represented in an action by the guardian of either the person or the property, appointed in this State. If no such guardian has been appointed, or if a conflict of interest exists between the guardian and the minor or adjudicated incapacitated person, or for other good cause,

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the minor or adjudicated incapacitated person shall be represented by guardian ad litem appointed by the court in accordance with paragraph (b) of this rule.

While the plaintiff does not appear to have been adjudicated incapacitated pursuant to R. 4:86-1 et seq, it is admitted that plaintiff has been determined to be insane.

Accordingly, it is respectfully requested that the court address the appointment of a guardian or guardian ad litem before proceeding further.

Respectfully submitted,

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