

**IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI**

|  |   |                       |
|--|---|-----------------------|
| CHLORA LINDLEY-MYERS, Director,                  | ) |                       |
| Department of Insurance, Financial Institutions  | ) |                       |
| and Professional Registration, State of Missouri | ) |                       |
|  | ) |                       |
| Petitioner,                                      | ) |                       |
|  | ) | Case No. 17AC-CC00005 |
| v.   | ) |                       |
|  | ) |                       |
| GALEN INSURANCE COMPANY,                         | ) |                       |
|  | ) |                       |
| Respondent.                                      | ) |                       |

**JUDGMENT, DECREE AND FINAL ORDER OF LIQUIDATION**

This matter came before the Court on May 17, 2017, on the basis of the First Amended Verified Petition for Judgment, Decree and Final Order of Liquidation filed by Petitioner Chlora Lindley-Myers, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Petitioner” or “Director”) pursuant to section 375.1175, RSMo. The Court, being well and sufficiently advised in the premises, finds and concludes as follows:

**THE COURT FINDS:**

1. That jurisdiction and venue of this proceeding are proper under section 375.1154, RSMo;
2. That sufficient cause exists for the liquidation of Galen Insurance Company (“Galen”) under section 375.1175.1(2), (3), and (4), RSMo;
3. That Galen is insolvent as that term is defined under section 375.1152(13), RSMo, because its liabilities plus the capital and surplus required by law for its organization exceed its admitted assets;
4. That Galen is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;

5. That Galen is in such condition that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; and

6. That it is in the best interests of the policyholders and creditors of Galen and the public that Galen be placed into liquidation.

**BASED ON THE FOREGOING FINDINGS, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:**

1. An Order of Liquidation with a Finding of Insolvency is hereby entered against Galen.

2. Chlora Lindley-Myers, Director of the Department of Insurance, Financial Institutions and Professional Registration (“Department”), and her successors in office, is hereby appointed Liquidator of Galen (“Liquidator”), pursuant to section 375.1176, RSMo, and shall, forthwith take immediate possession of the assets of Galen and administer them subject to the supervision of the Court until the Liquidator is discharged by the Court.

3. The Liquidator shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of Galen, wherever located, as of the entry of this order of liquidation (“Order”).

4. The Liquidator shall take immediate possession of and secure all of the records and property of Galen wherever located, and take all measures necessary to preserve the integrity of Galen’s records.

5. The filing or recording of this Order with the clerk of the court and the recorder of deeds of the county in which Galen’s principal office or place of business is located, shall impart

the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with that recorder of deeds would have imparted.

6. The Liquidator is directed to liquidate Galen, pursuant to the Missouri Insurers Supervision, Rehabilitation and Liquidation Act, sections 375.1150 to 375.1246, RSMo, to take such other action as the nature of this cause and the interests of the policyholders, creditors or the public may require, subject to further orders of this Court, and to make the continued expenditure of such wages, rents, and other expenses as are necessary for the administration of the liquidation of Galen's estate.

7. The rights and liabilities of Galen and of its creditors, policyholders, shareholders, members, and any other persons interested in its estate shall become fixed and the termination of any period fixed by any statute of limitations provided by law shall be suspended as of the date of entry of this Order, except as provided in sections 375.1178, 375.1206, and 375.1210, RSMo. Rights of shareholders provided by any law other than as provided by sections 375.1150 to 375.1246, RSMo, shall be suspended upon issuance of this Order.

8. Except as provided for herein, all of the contracts, covenants, bonds or policies, evidences, or certificates of coverage or insurance issued by or in the name of Galen, under which any guarantee or insurance is provided, shall be canceled upon the earliest of the following:

A. Thirty (30) days after the date of the Order is entered, at 12:01 a.m. local time of the insured or policyholder of such direct policy or certificate of insurance; or

B. Upon the expiration date of any such direct policy or certificate of insurance, if the expiration date is sooner than thirty (30) days after the entry of the Order; or

C. Upon the date the insured or policyholder of any such direct policy or certificate of insurance replaces the direct policy or certificate of insurance, or effects cancellation, if the insured or policyholder does so within thirty (30) days after the entry of the Order;  
or

D. Upon such other date as may be established by this Court.

Otherwise, entry of this Order shall not constitute an anticipatory breach of any contracts of Galen, and it shall not be grounds for revision, revocation, or cancellation of such contracts of Galen in force.

9. The Liquidator is vested with all of the right, title, and interest in all funds recoverable under treaties, contracts and agreements of reinsurance entered into by Galen as a ceding insurer or assuming reinsurer. All reinsurance companies involved with Galen are restrained from making any settlement with or payment to any claimant or policyholder of Galen except upon the approval of the Liquidator and upon the order of the Court. Additionally, to the extent that any reinsurer of Galen would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to the date of this Order to cover such reserves reflected upon a statement filed with a regulatory authority, such reinsurer shall be required to post letters of credit or other security to cover such reserves after the date of this Order. If a reinsurer shall fail to post letters of credit or other security required by a reinsurance agreement, the Director may issue an order barring such reinsurer from thereafter reinsuring any insurer which is incorporated under the laws of the State of Missouri.

10. The Liquidator shall file periodic financial reports with the Court. Financial reports shall include, at a minimum, the assets and liabilities of Galen and all funds received or

disbursed by the Liquidator during the current period. Financial reports shall be filed within one year of this Order and at least annually thereafter.

11. The Liquidator shall file with the Director a statement which shall reflect the claims reserves, including losses incurred but not reported, and unearned premium reserves which have been established by the Liquidator and which shall also set forth the amounts of such reserves that are allocable to particular reinsurers of Galen. A similar statement shall be filed by the Liquidator not less frequently than annually and shall be considered for all intents and purposes as the annual statement which was required to be filed by Galen with the Director prior to the liquidation proceedings. The Liquidator also shall file annually with the Director the statement and supplements required by 20 CSR 200-15.100.

12. Any person who shall knowingly destroy, conceal, convert or alter any records or property of Galen after the date of this Order, without having received prior written permission of the Liquidator or of the Court, or who shall knowingly neglect or refuse, upon the order or demand of the Liquidator, to deliver to the Liquidator any records or property of Galen in his or her possession or control, shall be guilty of a class D felony.

13. The Liquidator is authorized to take any actions necessary to prevent, without limitation, potential preferences from occurring, including specific injunctions against appropriate parties pursuant to section 375.1155, RSMo, and where appropriate to enjoin the dissipation of Galen's assets already paid out as potential preferences or fraudulent conveyances.

**Powers of the Liquidator.**

14. The Liquidator shall have all the powers and authority to perform all acts and other matters conferred upon the Liquidator in this Order or by the laws of this State, or hereafter conferred upon the Liquidator by the laws of this State, including, but not limited to the power:

A. To employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and such other personnel as the Liquidator may deem necessary to assist in the liquidation;

B. To fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the Court;

C. To pay reasonable compensation to persons appointed and to defray from the funds or assets of Galen all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of Galen. In the event that the property of Galen does not contain sufficient cash or liquid assets to defray the costs incurred, the Director may advance the costs so incurred. Any amounts so advanced for expenses of administration shall be repaid to the Director in accordance with sections 374.160, 374.220, and 375.1182, RSMo;

D. To hold hearings, to subpoena witnesses to compel their attendance, to administer oaths, to examine any persons under oath, and to compel any person to subscribe to his or her testimony after it has been correctly reduced to writing; and in connection therewith to require the production of any books, papers, records or other documents which the Liquidator deems relevant to the inquiry;

E. To audit the books and records of all agents of Galen insofar as those records relate to the business activities of Galen;

F. To collect all debts and moneys due and claims belonging to Galen, wherever located, and for this purpose:

i. To institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts;

ii. To do such other acts as are necessary or expedient to collect, conserve or protect its assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon such terms and conditions as she deems best; and

iii. To pursue any creditor's remedies available to enforce the Liquidator's claims;

G. To conduct public and private sales of the property of Galen;

H. To use assets of the estate of Galen to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 375.1218, RSMo;

I. To acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with, any property of Galen at its market value or upon such terms and conditions as are fair and reasonable. The Liquidator shall also have power to execute, acknowledge and deliver any and all deeds;

J. To borrow money on the security of Galen's assets or without security and to execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation. Any such funds borrowed may be repaid as an administrative expense and have priority over any other claims in class 1 under the priority of distribution;

K. To enter into such contracts as are necessary to carry out this Order, and to affirm or disavow any contracts to which Galen is a party;

L. To continue to prosecute and to institute in the name of Galen or in the Liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and, with the approval of this Court, to abandon the prosecution of claims the Liquidator deems unprofitable to pursue further. If Galen is dissolved under section 375.1180, RSMo, the Liquidator shall have the power to apply to any court in this state or elsewhere for leave to substitute the Liquidator for Galen as plaintiff;

M. To prosecute any action which may exist on behalf of the creditors, members, policyholders or shareholders of Galen against any officer of Galen, or any other person;

N. To institute proceedings in the same case for receivership for any organization or corporation having the exclusive or dominant right to manage or control Galen which is the subject of the main case, when it appears that a receiver is necessary for the preservation of the assets of Galen or that a receiver is necessary to determine the assets of Galen held by the organization or corporation. The duration of the receivership and the duties of the receiver shall be in the discretion of the Court;

O. To remove any or all records and property of Galen to the offices of the Director or to such other place as may be convenient for the purposes of efficient and orderly execution of the liquidation. Guaranty associations and foreign guaranty associations shall have such reasonable access to the records of Galen as is necessary for them to carry out their legal obligations;

P. To deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions and to invest all sums not currently needed, unless the Court orders otherwise; provided that, at the election of



the Court, funds held by the Liquidator of Galen's estate shall be deposited and invested by the Liquidator pursuant to either of the following standards as the Court shall order:

i. The standards specified by law for the deposit and investment of state funds by the state treasurer, as such standards are determined to be applicable by the Court;

ii. The standards specified by law for the investment of money and property of the Missouri state employees' retirement system, as such standards are determined to be applicable by the Court;

Q. To file any necessary documents for record in the office of any recorder of deeds or other office in this state or elsewhere where property of Galen is located;

R. To assert all defenses available to Galen as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury. A waiver of any defense by Galen after December 30, 2016 shall not bind the Liquidator. Whenever a guaranty association or foreign guaranty association has an obligation to defend any suit, the Liquidator shall give precedence to such obligation and may defend only in the absence of a defense by such guaranty associations;

S. To exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included within sections 375.1192 to 375.1195, RSMo, except for any right of distribution pursuant to section 375.1218, RSMo;

T. To intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and to act as the receiver or trustee whenever the appointment is offered;

U. To enter into agreements with any receiver or director of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states; and

V. To exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with the provisions of sections 375.1150 to 375.1246, RSMo.

15. Notwithstanding the powers of the Liquidator as stated in this Order, the Liquidator shall have no obligation to defend claims or to continue to defend claims subsequent to the discharge of the Liquidator;

16. The Director as Liquidator, any special deputy, all employees, agents and attorneys of the Liquidator and the special deputy, and all employees of the State of Missouri when acting with respect to the liquidation shall be considered to be officers of the Court when acting in such capacities and as such shall be subject to the orders and directions of the Court with respect to their actions or omissions in connection with the liquidation. The Liquidator, special deputy, commissioners, and referees appointed by the Court, the agents, attorneys, and employees of the Liquidator, and employees of the State of Missouri when acting with respect to the liquidation shall enjoy absolute judicial immunity and be immune from any claim against them personally for any act or omission committed in the performance of their functions and duties in connection with the liquidation.

**Right to Repudiate Contracts.**

17. The Liquidator may disaffirm or repudiate any contract or lease:

A. To which Galen is a party;

B. The performance of which the Liquidator, in the Liquidator's sole discretion, determines to be burdensome; and

C. The disaffirmance or repudiation of which the Liquidator determines, in the Liquidator's sole discretion, will promote the orderly administration of the affairs of Galen;

18. The Liquidator shall determine whether or not to exercise the right of repudiation within a reasonable period following the entry of this Order. In the sole discretion of the Liquidator, a contract shall be repudiated as of either:

A. The date of the entry of this Order; or

B. Some other date subsequent to the entry of this Order selected by the Liquidator for the disaffirmance or repudiation of such contract or agreement.

19. The liability of the Liquidator for the disaffirmance or repudiation of any contract shall be calculated as of the date of repudiation, and shall be limited to actual direct compensatory damages as limited at section 375.1184.3, RSMo. Any such damages shall be submitted as a claim to the Liquidator pursuant to sections 375.1206 to 375.1222, RSMo.

20. An agreement which tends to diminish or defeat the interest of the Liquidator in any asset acquired by the Liquidator under section 375.1176, RSMo, whether acquired before or subsequent to the entry of this Order, shall not be valid against the Liquidator unless such agreement:

A. Is in writing;

B. Was executed by Galen and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by Galen;

C. Was approved by the board of directors of Galen, which approval shall be reflected in the minutes of said board; and

D. Has been, continuously, from the time of its execution, an official record of Galen maintained and readily available to the Director or examiners of the Department.

**Liquidation Notice & Proofs of Claim.**

21. The Liquidator shall give or cause to be given notice of this Order pursuant to the provisions of section 375.1185, RSMo, as soon as possible:

A. By first class mail and by email, rather than by telegram or telephone, to the director of the insurance department of each state in which Galen is doing business;

B. By first class mail to any guaranty association or foreign guaranty association which is or may become obligated as a result of the liquidation;

C. By first class mail to all known insurance agents of Galen;

D. By first class mail to all persons known or reasonably expected to have claims against the insurer including all policyholders, at their last known address as indicated by the records of the insurer; and

E. By publication in a newspaper of general circulation in the county in which Galen has its principal place of business and in such other locations as the Liquidator deems appropriate.

22. Notice under paragraph 21 to agents of Galen and to policyholders shall include, where applicable, notice that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws;

23. The Liquidator shall promptly provide to the guaranty associations such information concerning the identities and addresses of such policyholders and their policy coverages as may be within the Liquidator's possession or control, and otherwise cooperate with guaranty associations to assist them in providing to such policyholders timely notice of the guaranty associations' coverage of policy benefits including, as applicable, coverage of claims and continuation or termination of coverage.

24. The identity of all prospective claimants may be reasonably determined from Galen's records.

25. The Proof of Claim shall be in the approved form attached hereto as Attachment A and shall specify **4:30 p.m. Central Time on April 30, 2018** as the last day for filing of Proofs of Claim with the Liquidator.

26. Proof of all Claims shall be filed with the Liquidator in the approved form attached hereto as Attachment A **on or before 4:30 p.m. Central Time on April 30, 2018**, the **"Claims Bar Date."**

**Agent's Disclosure of Policy Records.**

27. Every person who receives notice in the form prescribed in section 375.1185, RSMo that was an agent of Galen, within thirty (30) days of such notice, shall provide to the Liquidator, in addition to the information the agent may be required to provide pursuant to section 375.1156, RSMo, the information in the agent's records related to any policy issued by Galen through the agent and, if the agent is a general agent, the information in the general agent's

records related to any policy issued by Galen through any subagent under contract to the agent, including the name and address of such subagent. Such information shall include information relating to premiums collected and held by the agent and all commissions relating to such policies, whether earned or unearned. A policy shall be deemed issued through an agent if the agent has a property interest in the expiration of the policy, or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another person.

28. Any agent failing to provide information to the Liquidator as required by this Order may be subject to payment of an administrative penalty of not more than one thousand dollars (\$1,000) for each day that the agent refuses to provide the information requested and the Department may suspend any license issued by the Department to the agent. Any penalty provided by this Order may be imposed after a hearing conducted by the Director. Any moneys collected by the Department pursuant to imposition of such administrative penalties shall be paid to the state treasurer for deposit to the general revenue fund.

**Actions by and against the Liquidator.**

29. No action at law or equity or in arbitration shall be brought against Galen or the Liquidator, whether in this state or elsewhere, nor shall any such existing actions be maintained or further presented after issuance of this Order. Whenever, in the Liquidator's judgment, protection of the estate of Galen necessitates intervention in an action against Galen that is pending outside this state, the Liquidator may intervene in the action. The Liquidator may defend any action in which the Liquidator intervenes pursuant to section 375.1188, RSMo, at the expense of the estate of Galen.

30. The Liquidator may, upon or after issuance of this Order, within ten years or such other longer time as applicable law may permit, institute an action or proceeding on behalf of the estate of Galen upon any cause of action against which a period of limitation fixed by applicable law had not expired as of December 30, 2016. Where, by any agreement, a period of limitation is fixed for instituting a suit or proceeding upon any claim, or for filing any claims, proof of claim, proof of loss, demand, notice, or the like, or where in any proceeding, judicial or otherwise, a period of limitation is fixed, either in the proceeding or by applicable law, for taking any action, filing any claim or pleading, or doing any act, and where in any such case the period had not expired as of December 30, 2016, the expiration of such periods shall be stayed and the Liquidator may, for the benefit of the estate, take any such action or do any such act, required of or permitted to Galen, within a period of ten years subsequent to the entry of this Order, or within such further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

**List of Assets.**

31. As soon as practicable after the date of this Order, but not later than one hundred twenty (120) days thereafter, the Liquidator shall prepare in duplicate a list of Galen's assets. The list shall be amended or supplemented from time to time as the Liquidator may determine. One copy shall be filed with the clerk of the court and one copy shall be retained for the Liquidator's files. All amendments and supplements shall be similarly filed. A submission to the Court for disbursement of assets in accordance with section 375.1205, RSMo, fulfills these requirements.

32. The Liquidator may reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

**Recovery from Reinsurers.**

33. The amount recoverable by the Liquidator from reinsurers shall not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to Galen's estate except where:

A. The reinsurance contract specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the ceding insurer's insolvency; or

B. The assuming insurer, with the consent of the direct insured or insureds, has directly assumed the ceding insurer's policy obligations to the payees under such policies in substitution for the ceding insurer's obligations to such payees.

**Recovery of Premiums.**

34. A producer, premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid earned premium due Galen at the time of this Order as shown on the records of Galen. The Liquidator shall also have the right to recover from such person any part of an unearned premium that represents commission of such person. Credits or setoffs or both shall not be allowed to a producer or premium finance company for any amounts advanced to Galen by the producer or premium finance company on behalf of, but in the absence of a payment by the insured. An insured shall be obligated to pay any unpaid earned premium due Galen at the time of this Order, as shown on the records of Galen.



**Proposal to Disburse Assets.**

35. Within one year of this Order, the Liquidator shall make application to the Court for approval of a proposal to make early access disbursements out of marshaled assets to a guaranty association or foreign guaranty association having obligations because of this insolvency.

36. Such proposal shall at least include provisions for:

A. Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors, to the extent of the value of the security held, and claims falling within priority class I as established in section 375.1218, RSMo;

B. Initial disbursement of the assets marshaled to date, which shall be as soon as practicable and in any case not later than one hundred twenty (120) days after the approval of the early access plan, and subsequent disbursement of assets which shall be at least annually;

C. The securing by the Liquidator from each of the guaranty associations or foreign guaranty associations entitled to disbursements of an agreement to return to the Liquidator such assets, together with income earned on assets previously disbursed, as may be required to pay claims of secured creditors and claims falling within the priorities established in section 375.1218, RSMo, in accordance with such priorities. No bond or indemnity agreement shall be required of any such association;

D. A full report to be made by each guaranty association or foreign guaranty association to the Liquidator accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on such assets and any other matter as the court may direct; and

E. Disbursements to guaranty associations in sums as large as possible, subject to the limitations set forth in section 375.1205, RSMo. If the Liquidator determines that there are insufficient assets to disburse at the time of any required disbursement, the Liquidator shall make application to the Court, with notice to the state insurance commissioners and guaranty associations pursuant to section 375.1205.6, RSMo, for approval of an intent not to disburse, stating the reasons for such determination.

37. Subject only to the provisions of section 375.1205.2(4), RSMo, guaranty associations shall not be charged interest on assets disbursed pursuant to section 375.1205, RSMo.

38. The Liquidator's proposal shall provide for disbursements to each guaranty association or foreign guaranty associations in amounts at least equal to the sum of claims payments and allocated lost adjustment expenses of each guaranty association, and a reasonable estimate of reserves for unpaid but known loss claims and allocated loss adjustment expenses expected to be paid within one year by each guaranty association. Amounts used for such calculation shall be those reported to the Liquidator by each guaranty association in its most recent financial report to the Liquidator. The Liquidator's proposal shall further provide that if the assets available for required disbursements do not equal or exceed the amount of such claim payments to be made by the association, the required disbursements may be in the amount of available assets. Unless otherwise provided by this Court, the reserves of Galen, as reflected in its records, on the date of this Order, shall be used to determine the initial disbursement to the guaranty associations. The Liquidator shall liquidate the assets of Galen in an expeditious

manner, but is not required to make forced or quick sales that would result in obtaining less than market value for assets.

39. Notice of each application shall be given to each guaranty association or foreign guaranty associations in and to the commissioners of the insurance departments of each of the involved states. Any such notice shall be deemed to have been given when deposited in the United States mail, certified delivery, first class postage prepaid, at least thirty (30) days prior to submission of such application to the Court. Action on the application may be taken by the Court provided the above-required notice has been given.

40. The Liquidator shall not offset the amount to be disbursed to a guaranty association or a foreign guaranty association by the amount of any special deposit or any other statutory deposit or asset of Galen held in this state or another state unless such deposit has been forwarded to the guaranty association.

**Review of Claims by Liquidator.**

41. The Liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the Liquidator shall deem necessary. The Liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the Court, except where the Liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214, RSMo. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

42. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with

the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable actuarial certainty or upon another accepted method of valuing claims with reasonable certainty.

43. The estimation of contingent liabilities permitted by section 375.1220.2, RSMo or any other section of chapter 375, RSMo, may be used for the purpose of fixing a creditor's claim in the estate, and for determining the percentage of partial or final dividend payments to be paid to creditors with reported allowed claims. However, nothing in section 375.1220.2, RSMo, or any other section of chapter 375, RSMo, shall be construed as authorizing the Liquidator, or any other entity, to compel payment from a reinsurer on the basis of estimated incurred but not reported losses and, except with respect to claims made pursuant to section 375.1212, RSMo, outstanding reserves. Nothing in section 375.1220.3, RSMo, shall be construed to impair any obligation arising pursuant to any insurance agreement.

44. Notwithstanding the provisions of section 375.1220, RSMo, or any other section of chapter 375, RSMo, to the contrary, the Liquidator may negotiate a voluntary commutation and release of all obligations arising from reinsurance contracts or other agreements.

**Payment of Distributions.**

45. Under the direction of the Court, the Liquidator shall pay distributions in a manner that will assure the proper recognition of the priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims. Distribution of assets in kind may be made at valuations set by agreement between the Liquidator and the creditor and shall be approved by the Court.

**Application for Discharge.**

46. When all assets justifying the expense of collection and distribution have been collected and distributed under sections 375.1150 to 375.1246, RSMo, the Liquidator shall apply to the Court for discharge. The Court may grant the discharge and make any other orders, including an order to transfer any remaining funds that are uneconomical to distribute pursuant to section 375.1224, RSMo, as may be deemed appropriate.

**Miscellaneous.**

47. The Liquidator shall have all the powers of the directors, officers and managers of Galen, whose authority shall be terminated.

48. All banks, savings and loan associations, or other persons or entities which have on deposit, in their possession, custody and control funds of Galen are hereby instructed that the Liquidator has absolute control over such accounts and other assets. The Liquidator may change the name of such accounts and other assets, withdraw them from any such bank, savings and loan association, other person or entity, or take any lesser action necessary for the proper conduct of this liquidation. No bank, savings and loan association, other person or entity shall exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever or refuse to transfer any funds or assets to the Liquidator's control without permission of this Court.

49. All previous procedural orders entered by this Court in this proceeding shall continue in effect during the liquidation absent further orders of this Court.


50. The enumeration of the powers and authority of the Liquidator in this Order shall not be construed as a limitation upon the statutory powers of the Liquidator, nor shall it exclude in any manner the right to do such other acts not specifically enumerated or otherwise provided for, as may be necessary or appropriate for the accomplishment of the liquidation of Galen.

51. This Court shall retain jurisdiction of this matter for the purpose of granting such other and further relief as the nature of this cause and the interests of the policyholders and creditors of Galen or the members of the public may require.

52. There is no just reason for delay, and this Order is entered as a final judgment.

IT IS SO ORDERED.

Dated: 5/31/17

  
\_\_\_\_\_  
Jon E. Beetem, Circuit Judge  
Division I

STATE OF MISSOURI }  
(COUNTY OF COLE) } SS

Clerk of the Circuit Court of Cole County, Missouri, hereby certify  
that the above and foregoing is a full true and correct copy of

*Judgment*

and by its same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
the seal of my said office this 31 day of May 2013

*Davidson*  
Clerk of the Circuit Court of Cole County, Missouri

|                         |                  |
|-------------------------|------------------|
| For Liquidator Use Only | POC No. 1- _____ |
|                         | Date Rec'd _____ |

**PROOF OF CLAIM**

**Galen Insurance Company, in Liquidation**

*(Lindley-Myers v. Galen Insurance Company, Case No. 17AC-CC00005, Circuit Court of Cole County Missouri)*

**PLEASE READ INSTRUCTIONS CAREFULLY.  
DEADLINE FOR FILING PROOF OF CLAIM IS APRIL 30, 2018.**

|  |                              |
|--|------------------------------|
| <b>PART 1: CLAIMANT INFORMATION (Person Making Claim)</b>  |                              |
| Name: _____  |                              |
| Mailing Address: _____   |                              |
| City, State, ZIP: _____  |                              |
| Telephone number(s): _____   |                              |
| Claimant's SSN or Federal Tax ID: _____  |                              |
| Policy Number: _____   | Claim Number: _____          |
| Are you represented by an attorney? Yes ( ) No ( )<br>If yes, state attorney's name, address, and telephone number: _____  |                              |
| <b>PART 2: INSURED/POLICY INFORMATION</b>  |                              |
| Name of Insured: _____   | Name of Claimant: _____      |
| Policy Number: _____   | Claim Number: _____          |
| Agent Name or Number: _____  | Date of Loss: _____          |
| <b>PART 3: CLAIM INFORMATION</b>   |                              |
| Amount of Claim: _____   | Date Claim Became Due: _____ |
| Check the statement that best describes your claim:<br><input type="checkbox"/> POLICYHOLDER OR THIRD PARTY CLAIM – Claims by insured for policy benefits or claims against an insured for policy benefits<br><input type="checkbox"/> RETURN OF UNEARNED PREMIUM OR OTHER PREMIUM REFUND – Portion of paid premium not earned due to early cancellation of policy or audit adjustment<br><input type="checkbox"/> SECURED CLAIM<br><input type="checkbox"/> POLICYHOLDER COLLATERAL<br><input type="checkbox"/> CREDITOR – Agents, attorney fees, vendors, landlords, lessors, consultants, cedants, and reinsurers<br><input type="checkbox"/> ALL OTHER – Describe: _____ |                              |
| Describe the basis and nature of the claim and attach all documents supporting the claim. Attach additional pages, if necessary:   |                              |
| Is there other insurance that may cover this claim? Yes ( ) No ( )<br>If yes, provide name of insurer(s) and policy number(s): _____   |                              |
| Has a lawsuit or other legal action been instituted by anyone regarding this claim? Yes ( ) No ( )   |                              |
| Court Where Filed: _____   | Date Filed & Case No.: _____ |
| Plaintiff(s): _____  | Defendant(s): _____          |
| Have you received any payments on the claim which is the subject of this Proof of Claim from any source? Yes ( ) No ( )<br>If yes, specify the total amount received: \$ _____, and identify all sources:  |                              |





## PROOF OF CLAIM INSTRUCTIONS

### General

1. The Proof of Claim must be typed or legibly printed in ink.
2. The Proof of Claim must have all items completed and questions answered. If an item is not applicable, indicate so by writing "N/A" in blank. Please review the entire form for completion prior to mailing.
3. If you need additional space to fully answer any question, please do so on a separate sheet of paper and attach to your Proof of Claim.
4. You must attach to the Proof of Claim document, exhibits, narratives or evidence supporting your proof of loss. **FAILURE TO PROVIDE SUFFICIENT DOCUMENTS OR EVIDENCE SUPPORTING YOUR CLAIM IS GROUNDS FOR DENIAL THEREOF.**
5. You have an ongoing duty to supplement your Proof of Claim with supporting documentation as additional information is received. This requirement includes notice of any change of address.
6. The Proof of Claim must be signed by the Claimant who is named in Part 1 of the Proof of Claim Form, or by a representative of the Claimant who has knowledge of the matters set forth in the Proof of Claim and in any accompanying statement and supporting documents.
7. All Proofs of Claim must be sworn to before a notary public or person authorized to administer oaths.
8. All Proofs of Claim must be postmarked no later than **April 30, 2018**. The Liquidator is not responsible for undelivered mail. To protect your claim, the Liquidator recommends certified mail.
9. The Liquidator suggests you keep a copy of the completed Proof of Claim for your records.
10. All future correspondence, amendments or attachments must include the Policy Number from the front of the Proof of Claim form to ensure proper identification. For a claim other than policy benefits, a copy of the Proof of Claim form should be attached to the correspondence.
11. The Liquidator may, at his/her discretion, permit a claimant to file a Proof of Claim after the deadline. However, such late-filed claims are subject to certain provisions of the Missouri Insurance Code, including, but not limited to, provisions discussing the possible loss of priority.
12. Mail your completed Proof of Claim and supporting documents to: Galen Insurance Company, Attention: Liquidator, P.O. Box 690, Jefferson City, MO 65102-0690. Telefaxes of Proof of Claims and supporting documents will not be accepted.
13. If you have any questions about the Proof of Claim procedure, you may call 573-522-6115.

### PART 1: Claimant Information

14. State your name and address or the name and address of the party or person making a claim against the Company. "You" hereinafter references the party or person making the claim against the Company.
15. List your Social Security Number or Federal Tax ID and telephone numbers.
16. If you are represented by counsel, you must state the attorney's name, address and telephone number.

### PART 2: Insured/Policy Information

17. Indicate the name of the insured and the claimant/patient.
18. Indicate the policy number, Galen claim number, and date of loss.

### PART 3: Claim Information

19. You must indicate the total amount due to you. If the claim is contingent or unliquidated, indicate the amount of claim as "undetermined." If all or any portion of your claim is contingent or unliquidated, space is provided for you to include a brief explanation why your claim is contingent or unliquidated in any respect.
20. Describe the type of claim that you have against the Company.
21. If there are any other persons, insurance coverage, health plans, or other entities who may have any responsibility for your claim, identify as completely as possible such person(s) or entity(ies).
22. If you have received any payments from any source relating to your claim, you must identify the source.
23. If you owe the Company any money, whether related to this claim or not, you must identify the amount and reason.
24. A "secured claim" is one for which you hold an interest in collateral for such claim. If you assert your claim is secured, you must attach all documents evidencing your security interest.
25. If your claim is the subject of legal action, you must specify the Court, case number, all parties and their attorneys.

### PART 4: Affirmation

26. You **must** specify the total amount of your claim as indicated in the affirmation. If your claim is contingent or unliquidated, indicate the amount of claim as "undetermined."
27. You are signing the Proof of Claim under penalty of perjury. Please read the affirmation carefully before signing the Proof of Claim.

### Allowance Procedures

28. The Liquidator will review your Proof of Claim and may investigate further. If he/she allows your Proof of Claim against the Company, you will be notified of the Liquidator's determination. After all claims have been allowed, disallowed, or estimated, the Liquidator will seek the approval of the Court to make pro rata distributions to the creditors of the Company with allowed claims in the priority classes established under Missouri law. Every claim in each priority class will be paid in full before the members of the next priority class receive any payment.
29. If your Proof of Claim is denied in whole or in part, the Liquidator will give you or your attorney written notice of that determination by first class mail at the address shown in the Proof of Claim. Within 60 days from the mailing of the notice, you may file an objection with the Liquidator. If no such filing is made, you may not further object to the determination.
30. If you file an objection with the Liquidator, and the Liquidator does not change his/her denial of the claim as a result of your objection, then the Liquidator will ask the Court for a hearing as soon as practicable and give notice of the hearing by first class mail to you or your attorney and to any other persons directly affected, not less than 10 nor more than 30 days before the date of the hearing. The matter may be heard and decided by the Court or by a court-appointed referee. Hearings before court-appointed referees shall be conducted in an informal manner and the formal rules of evidence shall not apply. The referee shall submit written findings of fact and conclusions of law along with recommendation for disposition which shall become final if a motion for reconsideration before the court is not filed by the Liquidator or you with the Court within 15 days that notice of such findings and conclusions is mailed to the parties. The motion for reconsideration shall allege either the existence of new facts which could not, with reasonable diligence, have been discovered and presented before the referee, or such erroneous conclusions of law, that would justify reconsideration of the claim by the Court. A motion for reconsideration based upon erroneous conclusions of law may be decided by the Court, after opportunity for response by the prevailing party, without necessity of hearing. A motion for reconsideration not ruled upon by the Court within 90 days after the motion is filed shall be deemed denied for purposes of appeal.