



AlaFile E-Notice

03-CV-2019-900803.00

Judge: BROOKE E REID

To: MCDONALD JOHN FAIRLEY III  
John.McDonald@insurance.alabama.gov

---

## NOTICE OF COURT ACTION

---

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

JIM L. RIDLING AS COMMISSIONER OF INSURANCE V. PHYSICIANS CASUALTY RIS  
03-CV-2019-900803.00

A court action was entered in the above case on 8/16/2019 11:12:16 AM

ORDER

[Filer: ]

Disposition: GRANTED  
Judge: BER  
Notice Date: 8/16/2019 11:12:16 AM

GINA J. ISHMAN  
CIRCUIT COURT CLERK  
MONTGOMERY COUNTY, ALABAMA  
251 S. LAWRENCE STREET  
MONTGOMERY, AL, 36104

334-832-1260



**IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA**

JIM L. RIDLING AS COMMISSIONER )  
OF INSURANCE, )  
Plaintiff, )  
V. ) Case No.: CV-2019-900803.00  
PHYSICIANS CASUALTY RISK )  
RETENTION GROUP, INC., )  
Defendant. )

**Preliminary Injunction**

Before the Court is a motion to enter a preliminary injunction filed by the Plaintiff State of Alabama on the relation of Jim L. Ridling, as Commissioner of Insurance. Plaintiff was granted a temporary restraining order, as requested in the Complaint, on May 6, 2019, the terms and duration of which were extended by orders dated May 13, 2019, and June 6, 2019. The temporary restraining order is currently set to expire at the sooner to occur of a disposition of a motion for injunctive relief or August 19, 2019. This preliminary injunction replaces the temporary restraining order previously entered.

Defendant Physicians Casualty Risk Retention Group, Inc., does not oppose the motion and, in fact, consents in writing to the motion and entry of the relief requested. Defendant has notice of the motion for a preliminary injunction and waives any hearing opportunity on that motion.

The motion is thus GRANTED and it is ORDERED, ADJUDGED, and DECREED that Defendant Physicians Casualty Risk Retention Group, Inc., and all those acting in concert with it are hereby PRELIMINARILY ENJOINED as set forth below.

1. This is a delinquency proceeding under Ala. Code §§ 27-32-1 et seq. (2019) concerning Defendant Physicians Casualty Risk Retention Group, Inc., an Alabama corporation formed in Nevada as a risk retention group, but converted to an Alabama corporation and acting as an insurance company under the Alabama captive insurer statutes. As a risk retention group acting as an Alabama captive risk retention group, Physicians Casualty Risk Retention Group, Inc., is subject to the provisions of Ala. Code §§ 27-32-1 et seq., providing for the rehabilitation, reorganization, conservation, and liquidation of insurers. See Ala. Code § 27-31B-19 (2018). The Defendant has furnished medical malpractice liability insurance, a species of casualty insurance, on a multi-state basis, but the Commissioner of Insurance suspended its certificate of authority in Alabama in early April, 2019, due to a "mandatory control level event" under

the Alabama Risk-Based Capital (RBC) for Insurers Act, Ala. Code §§ 27-2B-1 et seq. (2019). See Ala. Code §27-2B-7(b)(2), as amended (2019).

2. The petition for injunctive relief is filed in conformity with the applicable provisions of Ala. Code Tit. 27 [the "Insurance Code"] and the Alabama Rules of Civil Procedure. The Court determines that it has jurisdiction and venue is proper in Montgomery County, Alabama, and Defendant does not contest same. Defendant has been given notice and waives any hearing or trial as a predicate for entering injunctive relief.

3. As a domestic insurer providing casualty (liability) insurance, Defendant Physicians Casualty Risk Retention Group, Inc., is subject to the Alabama Risk-Based Capital (RBC) for Insurers Act. Ala. Code §§ 27-2B-1 et seq. (2018). As alleged in the verified Complaint and affidavit supporting the motion, the evidence shows that the RBC score for the Defendant, based on its last-filed RBC report, is 41.69%, which is total adjusted capital of \$735,801 against authorized control level risk-based capital of \$1,764,770. By statute, this is a "mandatory control level event" for purposes of the Alabama Risk-Based Capital (RBC) for Insurers Act. If a "mandatory control level event" exists, the said Act requires the Commissioner of Insurance to "take actions as necessary to place the insurer under regulatory control pursuant to [Ala. Code §§ 27-32-1 et seq.]." Ala. Code § 27-2B-7(b)(2), as amended (2019). This case, and actions taken by Ridling, as Commissioner of Insurance, and Ryan Donaldson, as Receiver, are within the "regulatory control" required by statute.

4. According to the financial statement filed by Physicians Casualty Risk Retention Group, Inc., on May 29, 2019, the company's surplus declined from \$735,801 as reported at year end of 2018 to a negative \$1,033,926 as of the end of the first quarter of 2019.

5. Upon review of the verified complaint and motion with supporting affidavit and exhibits, the Court believes that a preliminary injunction should be granted because, absent the supervision of the Receiver acting under the temporary restraining order or, now, a preliminary injunction, there is a real and present danger that the continued operation of Physicians Casualty Risk Retention Group, Inc., is hazardous to policyholders, creditors, and claimants of the company, should such relief not be granted. The Court finds that a preliminary injunction is warranted because the State, on the relation of Ridling, has shown that the injury alleged is immediate and irreparable, that the State has no adequate remedy at law, that the State has a reasonable chance of success on the merits, and that any burden to the Defendant is not unreasonably outweighed by the benefit to the State.

6. The Alabama Department of Insurance has determined from the Defendant's own financial statement for the first quarter of 2019 that the Defendant is insolvent. Defendant does not contest that it is currently insolvent.

7. The Court determines, and Defendant does not contest, that rehabilitation as

allowed by Ala. Code § 27-32-11 is warranted.

8. In accordance with Ala. Code §§ 27-32-1, et seq., and other pertinent sections of the Insurance Code, Defendant Physicians Casualty Risk Retention Group, Inc., its officers, directors, stockholders, policyholders, agents, and employees, all persons in active concert or participation with Physicians Casualty Risk Retention Group, Inc., and all persons and other legal entities, are hereby ENJOINED until further order of the Court from:

A. Transacting any further business of Physicians Casualty Risk Retention Group, Inc., of whatever kind and nature except as specifically allowed by this Order or hereinafter provided in further orders of this Court.

B. Exercising any direction, control or influence whatsoever over said business of Physicians Casualty Risk Retention Group, Inc., and its subsidiaries or their assets except as specifically allowed in this Order or pending further order of this Court.

C. Interfering in any manner, either directly or indirectly, with the Receiver's operation of this receivership or in his possession or control of or in his title, right and interest to the property, books, records and all other assets of Physicians Casualty Risk Retention Group, Inc., as authorized by this Order or further order of this Court.

D. Commencing or further prosecuting any action in law or equity or administrative proceedings against Physicians Casualty Risk Retention Group, Inc., except in this Court; obtaining any preferences, judgments, attachments, or other liens against any of the property, personal or real, of Physicians Casualty Risk Retention Group, Inc.; commencing or continuing any action in the nature of an attachment, garnishment or execution against any of the property, personal or real, of Physicians Casualty Risk Retention Group, Inc., making any levy, garnishment or execution of any of the property, personal or real, of Physicians Casualty Risk Retention Group, Inc., or its assets or any part thereof except in this Court.

E. Disposing of the property or assets of Physicians Casualty Risk Retention Group, Inc., or doing or permitting to be done any action which might waste the assets of Physicians Casualty Risk Retention Group, Inc.

F. Returning any unearned premiums or any money in their possession collected as premiums for enrollment contributions to policyholders. Further, all persons are directed to turn over all funds of Physicians Casualty Risk Retention Group, Inc., in their possession, now or hereinafter acquired, to Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., who shall keep and maintain accurate reports of the receipt of any such funds and report same to the Court.

G. Asserting any claim or filing any action against the Alabama Commissioner of Insurance, the Receiver of Physicians Casualty Risk Retention Group, Inc., or their agents and employees, except insofar as such claims or actions arise in the receivership proceedings of Physicians Casualty Risk Retention Group, Inc., presently before this Court.

9. Pursuant to Ala. Code § 27-2-53 and Ala. Code §§ 27-32-1 et seq., appointment of Ryan Donaldson, in his official capacity as Chief of the Receivership Division of the Alabama Department of Insurance (and his successors in office), as set forth in the temporary restraining order, is hereby continued as part of this preliminary injunction. To the extent he has not already done so pursuant to the temporary restraining order entered in this case, Mr. Donaldson, as Receiver of all property, business, assets (general or other), affairs, and estate of Physicians Casualty Risk Retention Group, Inc., is directed to take immediate possession, custody and control of said property, both real and personal, wherever subsequently found or located, including but not limited to, the home office and other business premises and all rights of action, as well as the books, papers, documents of any kind and nature, evidence of debt, real estate, stocks, bonds, checking and bank accounts, debentures, mortgages, fixtures, furniture, certificates of deposit, receivables, office supplies, rights of action of any kind, and all other property and assets of every kind whatsoever belonging to Physicians Casualty Risk Retention Group, Inc. As needed, Mr. Donaldson may communicate with the captive manager for Physicians Casualty Risk Retention Group, Inc.

10. In accordance with Ala. Code § 27-32-11, Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., shall continue to operate the business of Physicians Casualty Risk Retention Group, Inc., with the purpose of rehabilitating, conserving and preserving said company under this preliminary injunction and further order and direction of the Court; and Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., shall proceed to collect any and all debts due said company and shall recommend to the Court reasonable remedies to the causes and conditions which have made receivership necessary, if such remedies exist and are feasible.

11. Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., shall have authority to negotiate sales of property, blocks of Physicians Casualty Risk Retention Group, Inc., policyholders, or other assets of said company when necessary or desirable, but if he shall receive an offer for same, before making a private or public sale, Ryan Donaldson, as Receiver, shall report the terms of such offer to the Court for such action or approval as the Court may deem proper.

12. Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., is authorized and directed to hire legal, clerical, managerial and other employees necessary to carry on the business of said company, and the Receiver is also authorized to rent or lease office facilities and to pay reasonable and necessary expenses and salaries incidental thereto.

13. Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., is hereby vested with all of the duties, rights, powers, obligations, immunities and authority placed upon the Commissioner of Insurance by Ala. Code § 27-32-15 and other pertinent sections of the Alabama Insurance Code, now or hereinafter amended, as provided under the provisions of Ala. Code § 27-2-55.

14. / In accordance with Ala. Code §§ 27-2-51, 27-32-5(c), and 27-32-15(d), and Ala.R.Civ.P. 65(c), neither Commissioner of Insurance Ridling nor the Receiver is required to post a bond in connection with these receivership proceedings or as a condition of this preliminary injunction.

15. Ryan Donaldson, as Receiver of Physicians Casualty Risk Retention Group, Inc., is hereby authorized to apply to the Court for further instructions in the discharge of his duties as Receiver.

16. The Court reserves jurisdiction of this cause for such other orders pertaining to this preliminary injunction or this case in general as it may find necessary, appropriate or desirable to make from time to time and reserves jurisdiction generally of this case.

**DONE this 16<sup>th</sup> day of August, 2019.**

**/s/ BROOKE E REID**  
**CIRCUIT JUDGE**