

In the Matter of the Rehabilitation of:

Case No. 10 CV 1576-I

SEGREGATED ACCOUNT OF  
AMBAC ASSURANCE CORPORATION

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NOTICE OF MOTION AND MOTION TO PERMIT  
EXCESS PAGES IN REPLY BRIEF


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**TO:** Counsel of Record

**PLEASE TAKE NOTICE** that the Interested and Intervening Parties, Access to Loans for Learning Student Loan Corporation (“ALL Student Loan”) and Lloyds TSB Bank plc (“Lloyds Bank”) (together, the “Movants”), by their attorney, Lawrence Bensky, at a time and place to be set by the Court, hereby move the Court to consider the Movants’ entire reply brief, including excess pages. As explained in the accompanying Affidavit of Lawrence Bensky, the grounds for this motion are that the circumstances of this case and of the Movants’ motion and objection to the temporary injunction justify the submission of a reply brief at least as long as the Movants’ brief.

WHEREFORE, the Movants respectfully request that the Court issue an order, such as the proposed Order below, permitting the Movants’ Reply Brief to include excess pages.

Dated: September 1, 2010.

By   
Lawrence Bensky  
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Attorney for ALL Student Loan and  
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Pro Hac Vice Application Pending

ORDER

Based on the above motion and supporting affidavit and on all of the files and proceedings in this case,

IT IS HEREBY ORDERED that the Movants' motion to permit excess pages in their reply brief is granted.

Dated: September \_\_, 2010

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Hon. William D. Johnston  
Lafayette County Circuit Court Judge  
Presiding by Judicial Appointment

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AFFIDAVIT OF LAWRENCE BENSKY

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STATE OF WISCONSIN  
COUNTY OF DANE

Lawrence Bensky, being duly sworn on oath, states the following:

1. I am one of the lawyers and local counsel for Access to Loans for Learning Student Loan Corporation (“ALL Student Loan”) and Lloyds TSB Bank plc (“Lloyds Bank”) (together, the “Movants”) in this case. This affidavit is submitted in support of the Movants’ motion to permit excess pages in the reply brief.
2. Dane County Circuit Court Rule 115 limits initial and response briefs to 40 pages and reply briefs to 10 pages, unless otherwise ordered by the Court. The Movants’ reply brief is 27 pages long. For the reasons explained in the rest of this affidavit, I believe that the reply brief length is justified by the circumstances of this case and the underlying motion, and that it is consistent with the spirit and purposes of the local rule.
3. The reply brief supports the Movants’ motion, filed on June 22, 2010, to modify the temporary injunction order and to intervene. The issues raised by this underlying rehabilitation proceeding are complex and involve issues of first

impression regarding Wisconsin insurance insolvency law and procedures and construction of specific Wisconsin statutory provisions. Many of these issues are covered by the Movants' motion.

4. The Movants' reply brief responds to multiple briefs of two parties – the Rehabilitator and Ambac. Specifically, the brief replies to issues addressed in the two briefs filed by the Rehabilitator and two of the three briefs filed by Ambac.
5. The reply brief addresses issues to be covered in two separate hearings, one on September 9, 2010, and the other on September 13, 2010.
6. The Movants' contend that their rights were violated by the placement of specific Ambac insurance policies – insuring bonds issued to finance student loans – in the Segregated Account. They were not informed, however, of the specific reasons relied on by Ambac and the Rehabilitator for placement of the policies in the Segregated Account until the Rehabilitator and Ambac filed their response briefs and supporting affidavits on August 17, 2010. Accordingly, the Movants' were unable to address those reasons in their initial briefs, but had to wait to do so in their reply brief. Unlike reply briefs generally, therefore, the Movants' reply brief appropriately addresses factual matters unaddressed in their initial brief.
7. The Movants' reply brief is supported in part by the affidavits of three experts in the insurance insolvency field. The expert affidavits address complex issues related to claims made by the Rehabilitator and Ambac in their response briefs regarding the sufficiency of various forms of security – surplus notes and reinsurance agreements, for example – for the policies in the segregated account.

A significant portion of the Movants' reply brief focuses on the items addressed in the expert affidavits and on applying the experts' opinions to the specific issues covered by the Movants' motion.

8. Acceptance by the Court of the Movants' reply brief will make the portions of the September 9 and 13 hearings relating to the Movants' motion more efficient. The reply brief addresses issues that may not need to be addressed at the hearings, or only minimally so, and explains in advance of the hearings specific and complex matters that should permit the Court and the parties to be better prepared for the hearings.

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Lawrence Bensky

Subscribed and sworn to  
before me this \_\_\_\_ day  
of \_\_\_\_\_ 2010.

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Notary Public, State of Wisconsin  
My commission expires: \_\_\_\_\_