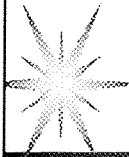


Reservation of Rights: “Perfection and Pitfalls”

Kurtis B. Reeg, Esq.
Gallop, Johnson & Neuman, L.C.
St. Louis, Missouri

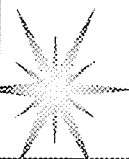


Careful, Courteous and Thoughtful Communication



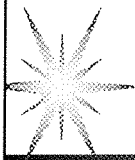
Careful, Courteous and Thoughtful Communication

We recognize that professional courtesy is consistent with zealous advocacy. We will be civil and courteous to all with whom we come in contact and will endeavor to maintain a collegial relationship with our adversaries.



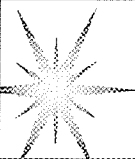
Careful, Courteous and Thoughtful Communication

We will attempt to resolve matters as expeditiously and economically as possible.



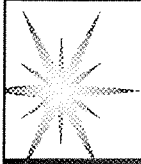
Careful, Courteous and Thoughtful Communication

We will honor all promises or commitments, whether oral or in writing, and strive to build a reputation for dignity, honesty and integrity.

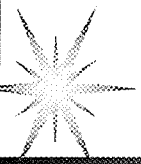


An “ROR” letter is a notice to the policyholder that:

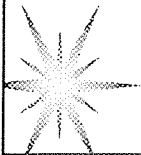
- The carrier may challenge coverage
- The carrier may seek reimbursement



If there is any conceivable way to find coverage, the courts *will* find it.



Star In The East
Insurance Company



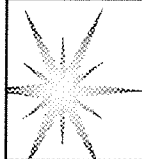
Kris Kringle Enterprises, Inc.

d/b/a

Santa Claus™

The Jolly Old Elf™

Father Christmas™



Happy Holidays From Your
Friends At The EPA!

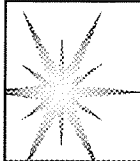


Happy Holidays From Your
Friends At The EPA!

To Kringle Enterprises, Inc.:

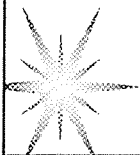
You Are A PRP

Clean It Up Or Pay Up

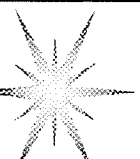


Grinch Waste Disposal Services

Your Poison Is Our Business!

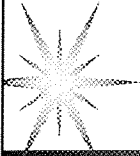


How's My Sledding?
Call 1-800-HO HO HO



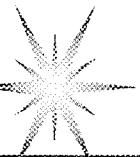
In The Circuit Court
of The State Of Euphoria
Ebenezer Scrooge v. Kris Kringle
Enterprises, Inc.

Petition For Abatement Of
Nuisance And Damages



State Of Euphoria
Department Of Environmental Protection
Reindeer Effluent Division

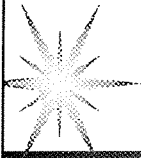
Administrative Order To Investigate And
Remediate Environmental Contamination



Little Johnny and Susie, on behalf of
a class of all the children of the
world, by and through their next
friends

v.

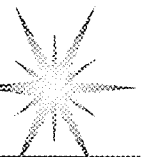
Kringle Enterprises, Inc.



Count I:

*We hate your damn toys and you scare
the #@\$%* out of us every Christmas
Eve*

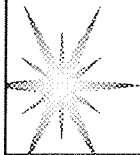
Emotional Distress!!



Count II:

These toys bum us out

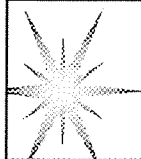
Breach of Implied Warranty of Fitness
for a Particular Purpose



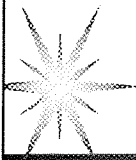
Count III:

*Your funky reindeer have turned my
new slate roof into a sieve*

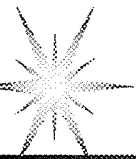
Negligence Resulting In
Property Damage



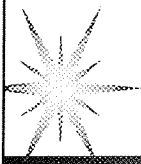
Star In The East will pay all sums
which the insured shall become
legally obligated to pay as damages
because of bodily injury or property
damage caused by an occurrence.



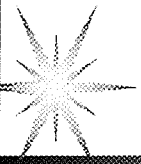
Star In The East has the right and duty to defend any suit against the insured seeking damages on account of such bodily injury or property damage.



Are they “suits”?

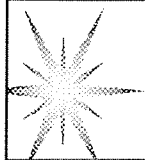


Investigate



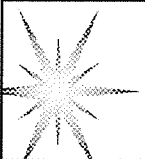
Caution Number One:

An investigation may waive conditions of forfeiture (untimely notice).



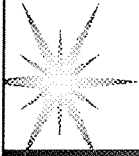
Caution Number Two:

Knowledge = What the carrier knows or should have discovered



How Long To Investigate?

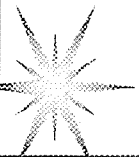
Two months or less	—————→	Okay
Two to six months	—————→	Maybe okay
More than six months	—————→	Get out the checkbook



Dear Kringle Enterprises, Inc.:

You are covered. We'll defend and pay up to the policy limits. You have a duty to cooperate in the defense. Please send Attorney Smith any papers you have or that you might receive in the future. We reserve the right to withdraw the defense if the pleadings are amended or new facts are discovered that would result in noncoverage.

Seasons Greetings
Star In The East Insurance Co.



Dear Kringle Enterprises, Inc.:

You are not covered because:

(List All The Reasons)



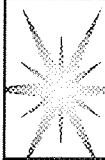
Questionable Coverage??????

1. The State of Euphoria Remediation Order
 - Suit?
 - “Owned Property” Exclusion



Questionable Coverage??????

2. Scrooge’s Lawsuit
 - Clean up Kringle’s property to mitigate



Questionable Coverage??????

3. Children's Class Action

- Not Covered: Intentional Torts
Punitive Damages
- Covered: Negligence
(Property Damage)



The Reservation Of Rights Letter

Detailed description of every possible reason why coverage may not exist



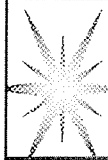
The Reservation Of Rights Letter

- Amend letter in light of new facts or pleadings
- or
- Withdraw if allowed



The Reservation Of Rights Letter

- Policyholder consent
- Policyholder rejection of qualified defense
- Policyholder selection of independent counsel



The Reservation Of Rights Letter

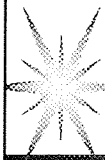
- Declaratory Judgment Action
- Concurrent with or subsequent to underlying case?



The Reservation Of Rights Letter

Splitting The Claims File

Claims	C		Claims
Adjuster	H	W	Adjuster
Monitoring	I	A	Monitoring
Litigation	N	L	Litigation
	E	L	
	S		
	E		



The Reservation Of Rights Letter

Separate Letters For Separate Policies?



The Reservation Of Rights Letter

Right To Obtain Independent Counsel
Paid For By The Carrier



The Reservation Of Rights Letter

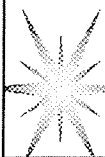
State The Coverage Position:

No Waffling Allowed!!!!



The Reservation Of Rights Letter

Notice: We will seek reimbursement of all amounts expended in defending and indemnifying this claim, including attorneys' fees and costs if there is no coverage



The Reservation Of Rights Letter

Got a problem?

Call The Department of Insurance,
1-800-555-5555

100 West Main Street,
Capitol City, Euphoria



The Top Ten Things You Should Not Put In Your ROR Letter

7. There's probably no coverage because you're not the President of the United States.
8. We really must insist on reserving our rights as to late notice because even though you sent the suit to the Director of Insurance, she really doesn't work for us anymore.
9. We really thought "notice of D.E.P." meant "Notice of Deposit Premium".
10. Santa, we beg to differ. We think reindeer dip is a completed operation.



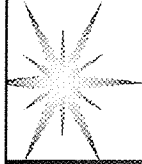
The Top Ten Things You Should Not Put In Your ROR Letter

4. Everyone knows Newark is a dump, so the claim may be barred by the pollution exclusion.
5. That atmospheric release will probably not be considered property damage because the only air we view to be tangible property is in L.A., where you can cut it with a knife.
6. There's probably only one occurrence because continuous and repeated exposure to the same harmful conditions includes each time your kid siphoned gas by mouth out of the 829 school buses that night.



The Top Ten Things You Should Not Put In Your ROR Letter

1. Mr. President, we don't care what you say; the term "L.U.S.T." is not ambiguous.
2. The claim may be barred by the expected and intended defense because even though you expected coverage, we never intended to provide any.
3. "Dear Anus:"



Kurtis B. Reeg

Gallop, Johnson & Neuman, L.C.
St. Louis, Missouri