

seeking to set aside as fraudulent certain claims and liens granted by these subsidiaries in connection with TOUSA, Inc.'s settlement of a several-hundred-million-dollar lawsuit on July 31, 2007. Although the bankruptcy court allowed most of the Committee's claims to proceed, it granted appellee Citicorp's motion to dismiss several claims seeking to avoid liens under a revolving credit agreement agented by Citicorp. Recognizing that all parties, as well as the estate, would benefit from quick appellate resolution of this issue, the bankruptcy court certified its order under Fed. R. Civ. P. 54(b) (made applicable by Bankr. R. 7054(a)).

2. Resolution of the pending appeal is urgent because, among other things, trial on overlapping claims against the remaining defendants is scheduled for July 13, 2009. As the bankruptcy court recognized, "re-trial of the claims [at issue in this appeal] would involve much of the same evidence about the solvency of the Debtors that would be required at the trial of the remaining claims, so that a separate trial of the claims arising from the Revolving Credit Facility would duplicate in large part the trial" scheduled for July 13. Order 2-3. Such a duplicative re-trial would greatly burden the estate and would not serve the interests of judicial economy.

The bankruptcy court furthermore recognized that:

- "Uncertainty about any appeal and review of this ruling may impede the progress of this case and may interfere with efforts by the parties to the adversary proceeding to resolve the case consensually." *Id.* at 2.
- "[R]einstatement of claims under the Revolving Credit Facility after the confirmation of a plan of reorganization would pose number practical obstacles to the enforcement of any judgment in favor of the Committee and thus may interfere with efforts to create an acceptable plan of reorganization for the Debtors." *Id.* at 3.

Expedited resolution of this appeal is necessary for all of these reasons.

3. We are not aware of any certain deadlines being delayed pending decision of this appeal. However, for reasons described above, uncertainty regarding the issues on appeal threatens to delay the approval of a plan of reorganization. And the fact that the trial date is *not* being delayed creates the possibility of a costly second trial.

4. Unless this appeal is decided before July 13, 2009, when the trial on the remaining claims is scheduled to begin, the parties and the estate will face the damages associated with a duplicative re-trial.

Dated this 19th of March, 2009

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications in this Court set forth in Local Rule 2090-1(A)

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I HEREBY CERTIFY that the undersigned attorneys are appearing *pro hac vice* in this matter pursuant to court order dated July 10, 2008 [D.E. 1360, 1362, 1363 in Ch. 11 No. 08-10928]

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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified below, either via transmission of Notices of Electronic Filing generated by CM/ECF or in by email for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing:

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