

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:
TOUSA, INC., *et al.*,

Debtors.

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF TOUSA, INC., *ET AL.*,

Plaintiff,

vs.

TECHNICAL OLYMPIC, S.A.;
KONSTANTINOS STENGOS; ANTONIO
MON; TOMMY MCADEN; ANDREAS
STENGOS; GEORGE STENGOS; LARRY
HORNER; WILLIAM HASLER; MICHAEL
POULOS; MARIANNA STENGOU; SUSAN
PARKS; J. BRYAN WHITWORTH; PAUL
BERKOWITZ; CANDACE CORRA; RUSSELL
DEVENDORF; BRIAN KONDERIK; TOM
MCANDREW; DAVE SCHOENBORN;
GORDON STEWART; and STEPHEN
WAGMAN,

Defendants.

Chapter 11 Cases

Case No. 08-10928-JKO

Jointly Administered

Adv. Pro. No. 09-01616-JKO

EX PARTE MOTION TO SUSPEND ADVERSARY CASE DEADLINES

The Official Committee of Unsecured Creditors (the “**Committee**”) of TOUSA, Inc., et al. (“**Debtors**”), by and through its undersigned counsel, requests this Court to enter an order, substantially in the form annexed hereto, suspending the case deadlines of this adversary proceeding, as directed by the Court’s *Order Granting Leave, Standing and Authority to the Official Committee of Unsecured Creditors of TOUSA, Inc., et al., to Prosecute and, if*

Appropriate, Settle Certain Causes of Action on Behalf of the Debtors' Estates (Case No. 08-10928, DE #2828, the "**Standing Order**"), entered in the underlying bankruptcy case. In support of this Motion, the Committee states:

1. This adversary case was commenced with the filing of the Committee's Complaint on June 9, 2009.

2. Shortly after the commencement of this adversary proceeding, in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, the Clerk of Court issued a *Summons and Notice of Pretrial/Trial in an Adversary Proceeding* (DE #5, the "**Summons**") setting an response date for all Defendants of July 6, 2009 ("**Complaint Response Date**") and a pretrial conference for November 18, 2009, and the Local Form *Order Setting Filing and Disclosure Requirements for Pretrial and Trial* (DE #6) was entered.

3. Bankruptcy Rule 7004(e) requires that service of initial process be made upon the named Defendants within ten (10) days after the Summons is issued, and Plaintiff's counsel is endeavoring to effect service on the Defendants.

4. In addition, the Order Setting Pretrial Requirements directs certain disclosures to be made pursuant to Rule 26, Federal Rules of Civil Procedure, and other deadlines leading up to trial (the "**Pretrial Requirements**," and together with the Complaint Response Date, "**Adversary Case Deadlines**").

5. Prior to the commencement of this adversary proceeding, the Court entered the Standing Order, which

a) authorized the Committee, on behalf of the Debtors' estates, to prosecute the claims now embodied in the Complaint; and,

b) required conclusion of the trial or approval of a settlement of Adversary Case No. 08-01435, an action previously brought by the Committee against certain of the Debtors' lenders (referred to in the Standing Order as the "**Pending Adversary**").

6. The Standing Order impacts upon the Adversary Case Deadlines in the instant case, stating in part:

. . . to the extent that the Committee files a complaint with respect to the Claims prior to the conclusion of the trial in the Pending Adversary Proceeding, currently scheduled to begin on July 13, 2009, all deadlines (including service of process) are suspended until thirty days from (a) the conclusion of the trial, including any post-trial (but pre-judgment) submissions, or (b) entry of any order or series of orders approving the settlement of, or otherwise disposing of, the entirety of the Pending Adversary Proceeding, whichever occurs first, provided that the Committee may seek leave of Court at any time to vary the foregoing suspension of deadline."

(Standing Order, at ¶3).

7. By this Motion, the Committee seeks to suspend the Adversary Case Deadlines to conform with the Standing Order.

WHEREFORE, the Committee respectfully requests entry of an Order, substantially in the form annexed hereto as Exhibit A, suspending the Adversary Case Deadlines as directed by the Court's Standing Order, and granting such further relief as the Court deems appropriate.

[Intentionally Blank – Signatures on Next Page]

Dated: June 11, 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)

**STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.**

By: /s/ Patricia A. Redmond
Patricia A. Redmond (Florida Bar No. 303739)
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-and-

We hereby certify that the undersigned attorneys are appearing pro hac vice in this matter pursuant to Court orders dated February 27, 2008 and March 3, 2008.

AKIN GUMP STRAUSS HAUER & FELD LLP

Daniel H. Golden (New York Bar No. 1133859)
David M. Zensky (New York Bar No. 2176691)
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*Co-Counsel to the Official Committee of Unsecured
Creditors of TOUSA, Inc., et al.*

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
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OFFICIAL COMMITTEE OF UNSECURED
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Plaintiff,

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TECHNICAL OLYMPIC, S.A.; *et al.*,

Defendants.

Chapter 11 Cases

Case No. 08-10928-JKO

Jointly Administered

Adv. Pro. No. 09-01616-JKO

**ORDER GRANTING
EX PARTE MOTION TO SUSPEND ADVERSARY CASE DEADLINES**

Upon consideration of the Ex Parte Motion to Suspend Adversary Case Deadlines (D.E. #___) (“**Motion**”) filed by the Official Committee of Unsecured Creditors (“**Committee**”), good cause appearing, it is

ORDERED that:

1. The Motion is GRANTED.
2. This Court’s *Order Granting Leave, Standing and Authority to the Official Committee of Unsecured Creditors of TOUSA, Inc., et al., to Prosecute and, if Appropriate, Settle Certain Causes of Action on Behalf of the Debtor’s Estates* (DE #2828, Case No. 08-10928, the “**Standing Order**”) is hereby ratified.
3. All response dates and pretrial requirements (“**Adversary Case Deadlines**”) for this action are suspended pending conclusion of the trial of Adversary Case No. 08-01435, which is currently scheduled to begin on July 13, 2009. In accordance with the Standing Order, the Adversary Case Deadlines are suspended until thirty (30) days after:

“(a) the conclusion of the trial, including any post-trial (but pre-judgment) submissions, or (b) entry of any order or series of orders approving the settlement of, or otherwise disposing of, the entirety of the Pending Adversary Proceeding [Adversary Case No. 08-01435], whichever occurs first, provided that the Committee may seek leave of Court at any time to vary the foregoing suspension of deadline.”

(Standing Order, at ¶3, brackets supplied).

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Submitted by, and Copy to:

**STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.**

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(Attorney Redmond shall upon receipt serve a copy of this Order upon all interested parties and file a certificate of service.)

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