

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	CHAPTER 11
	)	
WASHINGTON MUTUAL, INC., <i>et al.</i> <sup>1</sup> ,	)	Case No. 08-12229 (MFW)
	)	(Jointly Administered)
Debtors.	)	
	)	Re: DI 3216, 2202, 2087
	)	

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**MOTION TO ADJOURN HEARING ON CLAIM OBJECTION OR FOR  
EXPEDITED CONSIDERATION OF THE  
MOTION OF SILAS B. WRIGLEY AND  
BARBARA WRIGLEY FOR RELIEF FROM THE AUTOMATIC  
STAY PURSUANT TO 11 U.S.C. § 362(d) TO PROCEED WITH  
HER ACTION AGAINST DEBTOR WASHINGTON MUTUAL, INC.  
PENDING IN THE SUPERIOR COURT FOR BUTTE COUNTY, CALIFORNIA**

SILAS B. WRIGLEY AND BARBARA WRIGLEY (“the Wrigleys”) file this motion for expedited consideration (the “Motion to Expedite”) of their motion for relief from stay under 11 U.S.C. § 362(d) pursuant to Fed. R. Bankr. P. 4001(a) and 9014 and L.B.R. 4001 (the “Stay Relief Motion”, DI 3216) *or* to adjourn the hearing on the objection to their claim.

**FACTUAL BACKGROUND**

1. On September 26, 2008 (the “Petition Date”), WMI, along with certain of its subsidiaries and affiliates (collectively the “Debtors”), filed their chapter 11 petitions with this Court.

2. More than three years before the Petition Date, following the wrongful foreclosure on the Wrigleys’ home, the Wrigleys brought a civil action in the Superior Court of Butte County, California (the “State Court”), pending at Case No. 134343 (the “State Court

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<sup>1</sup> The debtors are Washington Mutual, Inc. and WMI Investment Corp. The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, WA 98101.

Action”) against debtor Washington Mutual, Inc. (“WMI”), Washington Mutual Bank (“WMB”) and others (collectively, the “Defendants”).

3. In order to preserve their claims against WMI, on or about March 31, 2009, the Wrigleys filed their proof of claim with this Court for the claims asserted against WMI in the State Court Action.<sup>2</sup>

4. On or about January 5, 2010, the Debtors filed their Nineteenth Omnibus (Substantive) Objections to Claims, including the Wrigleys’ proof of claim the (DI 2087, the “Claim Objection”). The gravamen of the Claim Objection is that WMI cannot be held liable for the alleged actions of WMB. Through their attorney in the State Court Action, the Wrigleys responded on January 22, 2010 (DI 2202, the “Response”). In their Response, the Wrigleys argue, *inter alia*, that the proper forum to adjudicate the claim is the State Court, and that WMI should not be able to use this Court as an alternate forum for moving for summary judgment.

5. On April 13, 2010, the Wrigleys filed their Motion for Relief which formally requests that the Wrigleys’ claims be adjudicated in the State Court. At the same time they filed the Motion for Relief, the Wrigleys requested that the Debtors agree to adjourn the hearing on the Claim Objection to coincide with the hearing on the Motion for Relief.

6. The Debtors have not agreed to continue the hearing on the Claim Objection (now scheduled for **April 21, 2010**) nor have they agreed to expedited consideration of the Motion for Relief (now scheduled for **May 5, 2010**). They object to a continuance because they say they are flying witnesses to Delaware for the hearing on April 21 who should not have to travel twice. (Will they never be back in Delaware on any other matter?) And they say they cannot be ready for a hearing on the Motion for Relief on 10 days notice. As to the first issue, the Wrigleys have

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<sup>2</sup> The Wrigleys also submitted a claim in the WMB FDIC proceedings. For reasons unknown, and without there having been any form of adjudication, the Wrigleys’ claims were rejected in those proceedings.

no problem with the Debtors presenting their testimonial evidence on April 21<sup>st</sup> if it will help them avoid a double trip, so long as the Court defers ruling on the Claim Objection until after a hearing on the Motion for Relief. As to the second, the Wrigleys are somewhat skeptical as the Motion for Relief requests the same relief in the Response, but in any event, the hearing on the Motion for Relief need not occur on April 21<sup>st</sup> so long as the Court defers ruling on the Claim Objection (at least as to the Wrigleys) until a hearing on the Motion for Relief.

7. The Motion for Relief and the hearing on the claim objection are directly related. In both their response to the claim objection and in their Motion for Relief, the Wrigleys request that this court permit the Wrigleys to liquidate their claims in the State Court Action.

8. The Debtors obviously realize that if they prevail on the Claim Objection, the Motion for Relief will be moot.

9. There are compelling reasons to grant the Motion for Relief. Principally, as discussed further in the Motion for Relief, the principal defense raised by WMI, that it cannot be held liable for the acts of WMB, was never raised in the State Court Action despite three years of litigation. Debtors essentially seek summary judgment on that very issue in this Court. It is not fair to drag the Wrigleys into another forum to adjudicate a defense that Debtors did not raise for years

10. Secondly, the Wrigleys are in a financially precarious circumstance and suffer from severe health complications which make it difficult if not impossible to travel to Delaware.

11. The Wrigleys' counsel in the State Court Action, who is most familiar with the underlying facts and claims, similarly suffers from a severe disability which makes travel difficult if not impossible.

12. The Wrigleys regret the necessity of filing this Motion and its timing. At all times they have acted in good faith and do not seek to cause delay or impose unnecessary costs on the Debtors or burdens on this Court.

WHEREFORE, the Wrigleys move this Court for entry of an order, substantially in the form attached hereto, either expediting the hearing on the Motion for Relief or adjourning the hearing on the Claim Objection.

DATED: April 16, 2010

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FOR THE DISTRICT OF DELAWARE**

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	)	(Jointly Administered)
Debtors.	)	
_____	)	<b>Re: Docket No. 3216</b>

**ORDER GRANTING THE  
MOTION TO ADJOURN HEARING ON CLAIM OBJECTION OR FOR  
EXPEDITED CONSIDERATION OF THE  
MOTION OF SILAS B. WRIGLEY AND  
BARBARA WRIGLEY FOR RELIEF FROM THE AUTOMATIC  
STAY PURSUANT TO 11 U.S.C. § 362(d) TO PROCEED WITH  
HER ACTION AGAINST DEBTOR WASHINGTON MUTUAL, INC.  
PENDING IN THE SUPERIOR COURT FOR BUTTE COUNTY, CALIFORNIA**

Upon consideration of the above-referenced Motion, it is hereby ORDERED that:

1. The Motion is GRANTED.
2. The hearing on the Claim Objection, as to the Wrigleys, is adjourned until May 5, 2010.
3. Notwithstanding the foregoing, the Debtors are permitted to introduce testimonial evidence on April 21, 2010 in support of the Claim Objection as to the Wrigleys.

DATED: \_\_\_\_\_, 2010

\_\_\_\_\_  
The Honorable Mary F. Walrath  
United States Bankruptcy Court Judge

<sup>1</sup> The debtors are Washington Mutual, Inc. and WMI Investment Corp. The Debtors' principal offices are located at 1301 Second Avenue, Seattle, WA 98101.

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Debtors.	)	
_____	)	

**CERTIFICATE OF SERVICE**

I, Christopher D. Loizides, hereby certify that on April 16, 2010, I did cause to be served true and correct copies of the foregoing **MOTION OF SILAS B. WRIGLEY AND BARBARA WRIGLEY** on the parties on the attached service list as indicated thereon.

Dated: April 16, 2010

\_\_\_\_\_  
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<sup>1</sup> The debtors are Washington Mutual, Inc. and WMI Investment Corp. The Debtors' principal offices are located at 1301 Second Avenue, Seattle, WA 98101.

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