

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

<p>In re</p> <p>WASHINGTON MUTUAL, INC., et al.,</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 11</p> <p>Case No. 08-12229 (MFW)</p> <p>(Jointly Administered)</p>
<p>BROADBILL INVESTMENT CORP., NANTAHALA CAPITAL PARTNERS, LP, and BLACKWELL CAPITAL PARTNERS, LLC, individually and on behalf of all holders of Litigation Tracking Warrants originally issued by Dime Bancorp,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>WASHINGTON MUTUAL, INC., CHARLES LILLIS, DAVID BONDERMAN, FRANCIS BAIER, JAMES STEVER, MARGARET OSMER MCQUADE, ORIN SMITH, PHILLIP MATTHEWS, REGINA MONTOYA, STEPHEN FRANK, STEPHEN CHAZEN, THOMAS LEPPERT, WILLIMA REED, JR., and MICHAEL MURPHY,</p> <p style="text-align: center;">Defendants.</p>	<p>Adv. Proc. No. 10-50911 (MFW)</p> <p>Re. Dkt. Nos. 163, 164, 167, 172, 173, 176, 179 & 183</p> <p>Status Conference: April 13, 2011 at 9:30 a.m. (E.T.)</p>

**AURELIUS CAPITAL MANAGEMENT, LP'S REQUEST TO APPEAR
AND BE HEARD AT THE APRIL 13, 2011 STATUS CONFERENCE**

Aurelius Capital Management, LP ("Aurelius"), on behalf of certain of its respective managed entities that are creditors of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), respectfully requests permission to appear at the April 13, 2011 status conference in this adversary proceeding (the "Status Conference") and to be heard on a single issue: whether it should be allowed to participate in the Court-ordered



mediation of this adversary proceeding. In support of this request, Aurelius respectfully states as follows:

1. On March 1, 2011, Aurelius filed a motion to intervene in this adversary proceeding (the “Intervention Motion”) (D.I. 163 and 164). On March 15 and March 22, 2011, respectively, the plaintiffs filed an objection to the Intervention Motion (D.I. 167) and Aurelius filed a reply (D.I. 172). Aurelius has requested oral argument on the Intervention Motion (D.I. 173), and a notice of completion of briefing with respect to that motion was filed with the Court on March 29, 2011 (D.I. 179.)

2. On March 28, 2011, the Court entered an order assigning this adversary proceeding to mediation (D.I. 176) and ordering that the parties cooperate in good faith to complete the mediation by April 30, 2011. On April 7, 2011, the Court entered an order appointing Alan W. Kornberg to serve as mediator (D.I. 183). Aurelius is informed that the first mediation session will be held on April 14, 2011.

3. Given Aurelius’s direct economic interest in the outcome of this adversary proceeding, Aurelius requested that the parties permit it to participate in the mediation process. However, Aurelius has been informed by the Debtors (last week) and certain of the plaintiffs (yesterday) that, unless and until the Court issues an order authorizing Aurelius’s intervention in this adversary proceeding, they will not consent to Aurelius’s participation in the mediation. As a result, it is imperative that the Court address the issue of Aurelius’s entitlement to participate in the mediation prior to its commencement next Thursday.

4. As set forth in detail in the Intervention Motion, Aurelius has a more direct economic interest in the outcome of this adversary proceeding than do any of the existing defendants, due to its holdings of the Debtors’ PIERS securities, the securities most affected by

the outcome of this adversary proceeding. Indeed, the Debtors have no direct economic interest in the outcome, which will not affect the size of the estate but will merely determine the allocation of estate distributions among creditors and purported creditors. Likewise, the Committee represents a wide range of interests, many of which may be completely unaffected by the outcome of this adversary proceeding. Only one of the Committee's four members represents PIERS holders.

5. Consequently, Aurelius believes that its participation in the mediation is appropriate and will be constructive. Aurelius therefore respectfully requests that it be permitted to appear and be heard at the Status Conference on whether it may participate in the mediation. *See* 11 U.S.C. § 105(a) and (d) (authorizing bankruptcy courts to issue any order appropriate to carry out the provisions of title 11 and to hold such status conferences as are necessary to further the expeditious and economical resolution of a case).

WHEREFORE, Aurelius respectfully requests that this Court permit it to appear and be heard at the Status Conference as requested herein and grant such other relief as the Court deems proper.

Dated: April 8, 2011

BLANK ROME LLP

/s/ Victoria Guilfoyle

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CERTIFICATE OF SERVICE

I, *Victoria A. Guilfoyle*, hereby certify that on April 8, 2011, I caused a copy of the **Aurelius Capital Management, LP's Request to Appear and be Heard at the April 13, 2011 Status Conference** to be served upon the parties listed below in the manner indicated.

/s/ Victoria A. Guilfoyle
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