

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

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 :  
*In re* : **Chapter 11**  
 :  
 WASHINGTON MUTUAL, INC., et al.,<sup>1</sup> : **Case No. 08-12229 (MFW)**  
 :  
 Debtors. : **(Jointly Administered)**  
 :  
 : **Re: Docket Nos. 11009, 11010, 11012, 11013,**  
 : **11014, 11015, 11016, 11017, 11018, 11019,**  
 : **11020 & 11026**  
 : **Hearing Date: March 7, 2013 at 10:30 a.m. (ET)**  
 -----X **Response Deadline: February 26, 2013 at 4:00 p.m. (ET)**

**WMI LIQUIDATING TRUST’S LIMITED OMNIBUS  
OBJECTION TO CERTAIN EMPLOYEE CLAIMANTS’ MOTIONS TO AMEND**

WMI Liquidating Trust (“WMILT”), as successor in interest to Washington Mutual, Inc. (“WMI”) and WMI Investment Corp., formerly debtors and debtors in possession (collectively, the “Debtors”), files this limited omnibus objection (the “Limited Omnibus Objection”) to the following motions (collectively, the “Motions”):

- (a) *Motion of Sean Beckett for an Order Granting Amendment to Proof of Claim No. 1714 or, in the Alternative, Allowing Beckett to Assert Alternative Argument Regarding Claim Based on the WaMu Severance Plan, dated February 1, 2013 [D.I. 11016] (the “Beckett Motion”), filed by Sean Beckett (“Beckett”);*
- (b) *Motion of Anthony Bozzuti for Order Granting Amendment to Proof of Claim No. 3907 or, in the Alternative, Allowing Bozzuti to Assert Alternative Argument Regarding Claim Based on WaMu Severance Plan, dated February 1, 2013 [D.I. 11012] (the “Bozzuti Motion”), filed by Anthony Bozzuti (“Bozzuti”);*
- (c) *Motion of Kimberly Cannon for Order Granting Leave to File Amendment to Proof of Claim No. 1248 or, in the Alternative, Allowing Kimberly Cannon to Assert Alternative Argument Regarding Claim Based on WaMu Severance Plan, dated January 31, 2013 [D.I. 11010] (the “Cannon Motion”), filed by Kimberly Cannon (“Cannon”);*

<sup>1</sup> The Debtors in these chapter 11 cases along with the last four digits of each Debtor’s federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The principal offices of WMILT, as defined herein, are located at 1201 Third Avenue, Suite 3000, Seattle, Washington 98101.



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- (d) *Motion of Rajiv Kapoor for an Order Granting Amendment to Proof of Claim No. 1069 or, in the Alternative, Allowing Kapoor to Assert Alternative Argument Regarding Claim Based on the WaMu Severance Plan*, dated February 1, 2013 [D.I. 11019] (the “Kapoor Motion”), filed by Rajiv Kapoor (“Kapoor”);
- (e) *Motion of Marc Malone for Order Granting Amendment to Proof of Claim No. 466 or, in the Alternative, Allowing Malone to Assert Alternate Argument Regarding Claim Based on WaMu Severance Plan*, dated February 1, 2013 [D.I. 11013] (the “Malone Motion”), filed by Marc Malone (“Malone”);
- (f) *Motion of Thomas E. Morgan for an Order Granting Amendment to Proof of Claim No. 2612 or, in the Alternative, Allowing Morgan to Assert Alternate Argument Regarding Claim Based on the WaMu Severance Plan*, dated February 1, 2013 [D.I. 11017] (the “Morgan Motion”), filed by Thomas Morgan (“Morgan”);
- (g) *Motion of Michael Reynoldson for Order Granting Leave to File Amendment to Proof of Claim No. 752 or, in the Alternative, Allowing Reynoldson to Assert Alternate Argument Regarding Claim Based on WaMu Severance Plan*, dated February 1, 2013 [D.I. 11009] (the “Reynoldson Motion”), filed by Michael Reynoldson (“Reynoldson”);
- (h) *Motion of Genevieve Smith for Order Granting Amendment to Proof of Claim No. 2264 or, in the Alternative, Allowing Smith to Assert Alternate Argument Regarding Claim Based on WaMu Severance Plan*, dated February 1, 2013 [D.I. 11014] (the “Smith Motion”), filed by Genevieve Smith (“Smith”);
- (i) *Motion of Radha R. Thompson for an Order Granting Amendment to Proof of Claim No. 1153 or, in the Alternative, Allowing Thompson to Assert Alternate Argument Regarding Claim Based on the WaMu Severance Plan*, dated February 1, 2013 [D.I. 11018] (the “Thompson Motion”), filed by Radha Thompson (“Thompson”);
- (j) *Motion of Ann Tierney for an Order Granting Amendment to Proof of Claim No. 3862 or, in the Alternative, Allowing Tierney to Assert Alternate Argument Regarding Claim Based on the WaMu Severance Plan*, dated February 1, 2013 [D.I. 11015] (the “Tierney Motion”), filed by Ann Tierney (“Tierney”);
- (k) *Motion of John H. Murphy for Leave to Amend His Proof of Claim to Assert an Alternate Theory of Recovery*, dated February 8, 2013 [D.I. 11026] (the “Murphy Motion,” and collectively, together with the Beckett Motion, Bozzuti Motion, Cannon Motion, Kapoor Motion, Malone Motion, Morgan Motion, Reynoldson Motion, Smith Motion, Thompson Motion, and Tierney Motion, the “WSP Motions”), filed by John Murphy (“Murphy”); and
- (l) *Motion of John McMurray, Alfred Brooks, Todd Baker, Thomas Casey, Debora Horvath, and David Schneider for an Order Granting Amendment to Certain Proofs of Claim Regarding an Additional Theory of Recovery Based upon the WaMu Executive Officer Severance Plan, or, in the Alternative, Finding that Excusable Neglect Permits*

*the Assertion of Claims Based upon the WaMu Executive Officer Severance Plan*, dated February 4, 2013 [D.I. 11020] (the “EOSP Motion”), filed by John McMurray (“McMurray”), Alfred Brooks (“Brooks”), Todd Baker (“Baker”), Thomas Casey (“Casey”), Debora Horvath (“Horvath”), and David Schneider (“Schneider,” and collectively, together with Baker, Becketti, Bozzuti, Brooks, Cannon, Casey, Horvath, Kapoor, Malone, McMurray, Morgan, Murphy, Reynoldson, Smith, Thompson, and Tierney, the “Claimants”);

and, in support of the Limited Omnibus Objection, respectfully represents as follows:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. On September 26, 2008 (the “Commencement Date”), each of the Debtors commenced with the Court a voluntary case pursuant to chapter 11 of the Bankruptcy Code.

### **WMI’s Business and JPMC**

3. Prior to the Commencement Date, WMI operated as a savings and loan holding company that owned Washington Mutual Bank (“WMB”) and, indirectly, such bank’s subsidiaries, including Washington Mutual Bank fsb (“WMBfsb”). Like all savings and loan holding companies, WMI was subject to regulation by the Office of Thrift Supervision (the “OTS”). WMB and WMBfsb, in turn, like all depository institutions with federal thrift charters, were subject to regulation and examination by the OTS. In addition, WMI’s banking and nonbanking subsidiaries were overseen by various federal and state authorities, including the Federal Deposit Insurance Corporation (“FDIC”).

4. On September 25, 2008, the Director of the OTS, by order number 2008-36, appointed the FDIC as receiver for WMB (the “Bank Seizure”) and advised that the receiver

was immediately taking possession of WMB (the “Receivership”). Immediately after its appointment as receiver, the FDIC purportedly sold substantially all the assets of WMB, including the stock of WMBfsb (the “JPMC Transaction”), to JPMorgan Chase Bank, National Association (“JPMC”) pursuant to that certain *Purchase and Assumption Agreement, Whole Bank*, dated as of September 25, 2008 (the “Purchase Agreement”).

### **The Bar Date and Schedules**

5. On December 19, 2008, the Debtors filed with the Court their schedules of assets and liabilities and their statements of financial affairs. On January 27, 2009, and February 24, 2009, WMI filed with the Court its first and second, respectively, amended schedule of assets and liabilities and its first and second, respectively, amended statements of financial affairs. On January 14, 2010, WMI filed a further amendment to its statement of financial affairs (collectively, the “Schedules”).

6. By order, dated January 30, 2009 (the “Bar Date Order”), the Court established March 31, 2009 (the “Bar Date”) as the deadline for filing proofs of claim against the Debtors in these chapter 11 cases. Pursuant to the Bar Date Order, each creditor, subject to certain limited exceptions, was required to file a proof of claim on or before the Bar Date.

7. In accordance with the Bar Date Order, Kurtzman Carson Consultants, LLC (“KCC”), the Debtors’ court-appointed claims and noticing agent, mailed notices of the Bar Date [D.I. 0875 and 0926] and proof of claim forms to, among others, all of the Debtors’ creditors and other known holders of claims as of the Commencement Date. Notice of the Bar Date also was published once in *The New York Times (National Edition)* [D.I. 0848], *The Wall Street Journal* [D.I. 0846], *The Seattle Times*, and *The Seattle Post-Intelligencer* [D.I. 0847].

8. On or before the Bar Date, the Claimants filed their respective proofs of claims (the “Original Claims”) as follows:

Name of Claimant	Date Original Claim(s) Filed	Original Proof of Claim Number	Original Proof of Claim Components (as defined below)	Original Liquidated Claim Amount <sup>2</sup>
Todd Baker	3/27/2009	2274	SERAP Retention Bonus Agreement WMI CIC Agreement Unliquidated Indemnification Claims	\$3,109,450.51
Sean Beckett	3/19/2009	1714	WMB CIC Agreement SERAP SERP Deferred Compensation Plan	\$1,211,447.64
Anthony Bozzuti <sup>3</sup>	8/31/2010	3907	SERP SERAP Retention Bonus Agreement WMB CIC Agreement	\$1,104,373.61
Al Brooks	3/30/2009	2159	SERAP ETRIP WMI CIC Agreement Unliquidated Indemnification Claims	\$3,759,741.00
Kimberly Cannon	3/12/2009	1248	SERAP Retention Bonus Agreement WMB CIC Agreement	\$1,136,412.06
Thomas Casey	3/27/2009	2687	ETRIP WMI CIC Agreement Unliquidated Indemnification Claims	\$8,836,782.00
Debora Horvath	3/27/2009	2683	ETRIP Retention Bonus Agreement WMI CIC Agreement Unliquidated Indemnification Claims	\$6,208,184.00

<sup>2</sup> The unliquidated indemnification components of Baker, Brooks, Casey, Horvath, Schneider and McMurray, along with the similar claims of certain other director and officer claimants, collectively, are capped at \$23.4 million pursuant to that certain *Stipulation Resolving, Among Other Things, Estimation Motion with Respect to Certain Disputed Director and Officer Non-Subordinated Indemnification Claims*, dated September 14, 2012. See D.I. 10669. Pursuant to such stipulation and that certain *Stipulation to Suspend Local Rule 3007-1(f)(iii) With Respect to Certain Disputed Director and Officer Claims*, dated September 14, 2012, see D.I. 10670, WMILT expressly reserves its right to object to these unliquidated indemnification components on or before October 31, 2013.

<sup>3</sup> Bozzuti’s Proof of Claim number 3907, which he is currently attempting to amend, was filed on August 31, 2010 and amended two previously filed Proof of Claims numbers 678 and 1874 (“Claim 678” and “Claim 1874,” respectively). Claim 678, filed on February 9, 2009, alleged \$161,542.58 in payments owed pursuant to a Retention Bonus Agreement. Claim 1874, filed on March 23, 2009, alleged \$93,036.95 in payments owed pursuant to the SERAP. Both Claim 678 and Claim 1874 were expunged by the Court’s *Order Granting Debtors’ Forty-Ninth Omnibus (Non-Substantive) Objection to Claims* [D.I. 5656], dated October 20, 2010, as amended and superseded.

Name of Claimant	Date Original Claim(s) Filed	Original Proof of Claim Number	Original Proof of Claim Components (as defined below)	Original Liquidated Claim Amount <sup>2</sup>
Rajiv Kapoor	2/19/2009	1069	WMB CIC Agreement	\$360,500.00
Marc Malone	12/23/2008	466	WMB CIC Agreement Cash LTI	\$1,009,690.00
John McMurray	3/27/2009	2543	ETRIP WMI CIC Agreement Cash LTI Retention Bonus Agreement Unliquidated Indemnification Claim	\$5,006,450.00
Thomas Morgan	3/25/2009	2612	WMB CIC Agreement	\$1,176,148.76
John Murphy	3/26/2009	2033	WMB CIC Agreement	\$771,259.76
Michael Reynoldson	2/6/2009	752	Retention Bonus Agreement SERAP WMB CIC Agreement	\$1,328,245.99
David Schneider	3/27/2009	2681	ETRIP Retention Bonus Agreement WMI Change in Control Agreement Unliquidated Indemnification Claim	\$7,741,711.00
Genevieve Smith	3/26/2009	2264 <sup>4</sup>	WMB CIC Agreement	\$1,212,750.00
Radha Thompson	3/5/2009	1153	WMB CIC Agreement Cash LTI	\$1,354,040.00
Ann Tierney <sup>5</sup>	6/11/2010	3862	WMB CIC Agreement Cash LTI SERAP	\$842,685.33

9. The Claimants' Original Claim Components (as defined below) consist of claims under one or more of the following: (i) a WMB Change in Control Agreement ("WMB

<sup>4</sup> Although Smith's Proof of Claim number 2264 was previously expunged by the Court's *Fourth Order Granting Debtors' Sixth Omnibus (Substantive) Objection to Claims* [D.I. 10181], dated May 15, 2012, such claim was recently reinstated by the Court's *Order Approving Stipulation and Agreement Between WMI Liquidating Trust and Genevieve Smith, Partially Reinstating Proof of Claim Nos. 2264 and 2265 and Subjecting Such Claims to the Sixth Omnibus Objection to Claims* [D.I. 10989], dated January 14, 2013.

<sup>5</sup> Tierney's Proof of Claim number 3862, which she is currently attempting to amend, was filed on June 11, 2010 and amended proof of claim number 3624 ("Claim 3624"). Claim 3624, filed on April 6, 2009, alleged \$491,865.23 in payments owed pursuant to a WMB Change in Control Agreement and a Cash Long-Term Incentive Award. Claim 3624 was expunged by the Court's *Order Granting Debtors' Forty-Fifth Omnibus (Non-Substantive) Objection to Claims* [D.I. 5245], dated August 4, 2010, as amended and superseded.

CIC Agreement”), (ii) a WMI Change in Control Agreement (“WMI CIC Agreement”), (iii) the WMI Supplemental Executive Retirement Accumulation Plan (the “SERAP”), (iv) the WMI Supplemental Employees’ Retirement Plan (the “SERP”); (v) the WMI Deferred Compensation Plan (“Deferred Compensation Plan”); (vi) a Cash Long-Term Incentive Agreement (“Cash LTI”); (vi) a Retention Bonus Agreement (“Retention Bonus Agreement”); or (vii) officer indemnification claims (“Unliquidated Indemnification Claims,” and collectively, together with the WMB CIC Agreement, WMI CIC Agreement, SERAP, SERP, Deferred Compensation Plan, Cash LTI, Retention Bonus Agreement, and Unliquidated Indemnification Claims, the “Original Claim Components”).

### **Seventh Amended Plan and Confirmation Order**

10. On December 12, 2011, the Debtors filed their *Seventh Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code* [D.I. 9178] (as modified, the “Plan”). By order [D.I. 9759], dated February 23, 2012 (the “Confirmation Order”), the Court confirmed the Plan and, upon satisfaction or waiver of the conditions described in the Plan, the transactions contemplated by the Plan were substantially consummated on March 19, 2012.

### **Omnibus Objections, Scheduling Orders, and Related Employee Claims Hearing**

11. On June 26, 2009, WMILT filed the *Debtors’ Fifth Omnibus (Substantive) Objection to Claims* [D.I. 1233] (the “Fifth Omnibus Objection”) and *Debtors’ Sixth Omnibus (Substantive) Objection to Claims* [D.I. 1234] (the “Sixth Omnibus Objection”), both of which objected to certain employee claims, among others, on the basis that the claims were wrongly filed against WMI, which was not a party to the underlying agreements (the “Wrong Party Claims”).

12. On August 15, 2012, WMILT filed (i) *WMI Liquidating Trust's Seventy-Ninth Omnibus (Substantive) Objection to Claims* [D.I. 10504] (the "Seventy-Ninth Omnibus Objection") and *WMI Liquidating Trust's Eighty-Second Omnibus (Substantive) Objection to Change in Control Claims* [D.I. 10507] (the "Eighty-Second Omnibus Objection"), both of which objected to certain employee claims for "change in control" and other payments on the basis that, among other things, they are Wrong Party Claims and that no "change in control," as defined in their respective contracts granting the alleged benefits, occurred; and (ii) additional objections to certain other employee claims, including *WMI Liquidating Trust's Eightieth Omnibus (Substantive) Objection to Claims* [D.I. 10505] (the "Eightieth Omnibus Objection") and *WMI Liquidating Trust's Eighty-First Omnibus (Substantive) Objection to Claims* [D.I. 10506] (the "Eighty-First Omnibus Objection").

13. On September 17, 2012, WMILT filed (i) *WMI Liquidating Trust's Eighty-Fifth Omnibus (Substantive) Objection to Change in Control Claims* [D.I. 10678] (the "Eighty-Fifth Omnibus Objection"), which objected to certain employee claims for "change in control" and other payments on the basis that, among other things, that no "change in control," as defined in their respective contracts granting the alleged benefits, occurred; and (ii) additional objections to certain other employee claims, including *WMI Liquidating Trust's Eighty-Fourth Omnibus (Substantive) Objection to, Among Others, Change in Control Claims* [D.I. 10677] (the "Eighty-Fourth Omnibus Objection"), *WMI Liquidating Trust's Eighty-Eighth Omnibus (Substantive) Objection to Disputed Equity Interests* [D.I. 10681] (the "Eighty-Eighth Omnibus Objection"), and the *Objection of WMI Liquidating Trust to Proof of Claim Filed by Claimant Medina & Thompson (Claim No. 1218)* [D.I. 10676] (the "Medina and Thompson Objection," and together with the Fifth Omnibus Objection, Sixth Omnibus Objection, Seventy-Ninth



Omnibus Objection, Eightieth Omnibus Objection, Eighty-First Omnibus Objection, Eighty-Second Omnibus Objection, Eighty-Fourth Omnibus Objection, Eighty-Fifth Omnibus Objection, and Eighty-Eighth Omnibus Objection, the “Employee Claims Omnibus Objections”).

14. The Claimants’ Original Claims were objected to by WMILT as follows: (1) Malone, Murphy, and Smith’s Original Claims were objected to in the Sixth Omnibus Objection; (2) Beckett, Bozzuti, Cannon, Kapoor, Morgan, Murphy, and Reynoldson’s Original Claims were objected to in the Seventy-Ninth Omnibus Objection; (3) Malone, Thompson, and Tierney’s Original Claims were objected to in the Eighty-Second Omnibus Objection; and (4) McMurray, Brooks, Baker, Casey, Horvath, and Schneider’s Original Claims were objected to in the Eighty-Fifth Omnibus Objection.

15. Following the filing of the Employee Claims Omnibus Objections, certain claimants filed responses to such objections (the “Responding Claimants”).

16. On May 16, 2012, the Court entered orders granting the Fifth Omnibus Objection and the Sixth Omnibus Objection with respect to the non-responding employee claimants. *See* D.I. 10179 (as corrected by D.I. 10225), D.I. 10181 (as corrected by D.I. 10226).

17. On September 19, 2012, the Court entered orders granting the Seventy-Ninth Omnibus Objection, Eightieth Omnibus Objection, Eighty-First Omnibus Objection, and Eighty-Second Omnibus Objection with respect to the non-responding employee claimants. *See* D.I. 10689, 10690, 10691, and 10692.

18. On September 10, 2012, the Court held a status conference with respect to the Employee Claims Omnibus Objections and, at such time, requested that WMILT and the Responding Claimants confer regarding discovery and other procedures with respect to a hearing or series of hearings to consider the relief requested in the Omnibus Objections (the “Employee

Claims Hearing” or “Employee Claims Litigation”). As a result of such conferences and the Court’s input with respect to remaining issues, on October 15, 2012, the Court entered the *Agreed Order Establishing Procedures and Deadlines Concerning Hearing on Employee Claims and Discovery in Connection Therewith* (the “October Scheduling Order”) [D.I. 10777] which provided for, among other things, the consolidation of the litigation with respect to the Employee Claims Omnibus Objections, a schedule of deadlines related to these litigation, discovery protocols to be followed by the parties, and defined the more than eighty (80) remaining employee claimants (the “Remaining Employee Claimants”).

19. Thereafter, WMILT and certain of the Remaining Employee Claimants began the discovery process and quickly realized that, based upon the discovery propounded, additional time would be required to complete such process and prepare for the Employee Claims Hearing. Consequently, and as a result of such mutual understanding, on January 7, 2013, the Court entered the *Agreed Order Amending Scheduling Orders with Respect to Employee Claims Hearing and Adversary Proceedings* (the “Amended Scheduling Order”) [D.I. 10975], pursuant to which the Court, among other things, amended the deadlines set forth in the October Scheduling Order and established June 3, 2013 as the hearing date to consider the change of control issues raised by the Employee Claims Omnibus Objections. WMILT is continuing its discovery efforts in accordance with the Amended Scheduling Order. As of the date hereof, WMILT has reviewed in excess of 360,000 documents, responded to several of Claimants’ requests for production, and served all Claimants with interrogatories and requests for production. All discovery responses are due by the parties on March 11, 2013.

## **THE MOTIONS**

20. The Motions fall into two categories: (1) the WSP Motions; and (2) the EOSP Motion, as explained more fully below.

### **The WSP Motions**

21. The WSP Motions request that the Court enter an order permitting Beckett, Bozzuti, Cannon, Kapoor, Malone, Morgan, Murphy, Reynoldson, Smith, Thompson, and Tierney to amend their Original Claims to assert an alternate claim (the “WSP Claim”) under the WaMu Severance Plan, as amended and restated, effective January 1, 2008, to the extent that the Court determines that a “change of control” did not occur and the claimants are not entitled to “change in control” payments pursuant to their respective WMB CIC Agreements, or WMILT is found not to be the responsible party for obligations under their respective WMB CIC Agreements. In the alternative, all of the aforementioned claimants, except Murphy, request permission to assert their WSP Claims at the Employee Claims Hearing.

22. The WSP Motions generally assert that the WSP Claims are amendments and not new claims because (i) they relate back to the claimants’ Original Claims and Original Claim Components; and (ii) the amendments should be permitted because the claimants satisfy the five factors set forth in *Foman v. Davis*, 371 U.S. 178 (1962), that courts consider in deciding whether to grant leave to amend a federal complaint: (i) undue delay; (ii) bad faith; (iii); dilatory motive; (iv) prejudice; and (v) futility of the amendment (the “Foman Factors”).

23. While the Murphy Motion does not explicitly rely on the *Forman* Factors, Murphy asserts that (i) amending his Original Claim will not prejudice WMILT and (ii) Murphy acted in good faith in bringing the Murphy Motion.

**The EOSP Motion**

24. The EOSP Motion requests that the Court enter an order permitting McMurray, Brooks, Baker, Casey, Horvath, and Schneider to amend their Original Claims to assert an alternate claim (the “EOSP Claim”) under the Executive Officer Severance Plan, effective as of April 1, 2008, to the extent that the Court determines that a “change of control” did not occur and the claimants are not entitled to “change in control” payments pursuant to their respective WMI CIC Agreements.

25. The EOSP Motion asserts that the EOSP Claims are amendments and not new claims because (i) they relate back to the claimants’ Original Claims and Original Claim Components; and (ii) the amendments should be permitted because the claimants satisfy the *Foman* Factors. In the alternative, the EOSP Motion asserts that in the event that the Court were to deny the claimants’ motion to amend and find that their EOSP Claims are new claims and not amendments, the Court should nonetheless allow their late-filed new EOSP Claims on the basis of excusable neglect under *Pioneer Investment Services Co. v. Brunswick Associates*, 507 U.S. 380 (1993).

**LIMITED OMNIBUS OBJECTION AND REQUESTED RELIEF**

26. While WMILT does not believe that either the *Foman* Factors or the “excusable neglect” standard have been satisfied, WMILT does not object to the Claimants’ amending their Original Claims to assert alternative theories of recovery as asserted in the Motions. In particular, WMILT does not object to Baker, Brooks, Casey, Horvath, McMurray, and Schneider amending their Original Claims to assert an alternate theory of recovery pursuant to the Executive Officer Severance Plan should the Court find that a “change in control” did not occur and they do not receive “change in control” payments pursuant to their respective WMI

CIC Agreements. Further, WMILT does not object to Beckett, Bozzuti, Cannon, Kapoor, Malone, Morgan, Murphy, Reynoldson, Smith, Thompson, and Tierney amending their Original Claims to assert an alternate theory of recovery pursuant to the WaMu Severance Plan should the Court find that a “change in control” did not occur and they do not receive “change in control” payments pursuant to their respective WMB CIC Agreements.

27. However, WMILT requests that, should the relief requested be granted, WMILT be granted WMILT sixty (60) days to file renewed omnibus objections based on the foregoing amendments. In addition, to the extent the Court grants the Motions, WMILT requests that the Court allow WMILT to bring additional adversary proceedings it may have related to the claims, and, to the extent WMILT determines it needs additional discovery, to propound additional discovery related to the claims.

WHEREFORE WMILT respectfully requests that the Court add the requested relief to the orders approving the Motions and grant WMILT such other and further relief as is just.

Dated: Wilmington, Delaware  
February 26, 2013

/s/ Amanda R. Steele  
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