

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
WASHINGTON MUTUAL, INC., <i>et al.</i> , ¹)	Case No.: 08-12229 (MFW)
)	(Jointly Administered)
)	
Debtors.)	Re: Docket No. 11229
)	
)	

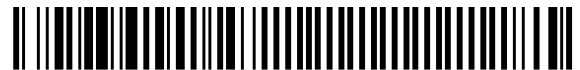
**LIMITED OBJECTION TO ENTRY OF PROPOSED ORDER APPOINTING A
MEDIATOR WITH RESPECT TO EMPLOYEE CLAIMS
AND PENDING OMNIBUS OBJECTIONS**

Claimants Jose’ Tagunicar, Daniel Shanks, John Webber, Robert Merritt, Robert Boxberger, Laura Rodrigues, Richard Strauch, Luis Rodriguez, Kathy Yeu, Michele Grau-Iversen, Robert Hill, Michael Rapaport, David Tomlinson, Mary Beth Davis, Stephen Whittaker, Anthony Vuoto and John Murphy (each a “Claimant” and collectively “Claimants”), by and through their undersigned counsel, hereby submit the following Limited Objection To Entry of the Proposed Order Appointing a Mediator submitted by Certification of Counsel by WMI Liquidating Trust (the “Proposed Order”)[D.I. No. 11229]. In support of this Limited Objection, the Claimants respectfully represent the following:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

¹ The Debtors in this Chapter 11 case, along with the last four digits of each Debtor’s federal tax identification numbers are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors’ principal offices are located at 1301 Second Avenue, Seattle, Washington 98191.



LIMITED OBJECTION TO
ENTRY OF PROPOSED ORDER REGARDING MEDIATION

2. The Claimants are generally not opposed to the form of the Proposed Order submitted by Certification of Counsel regarding the appointment of a mediator and the mediation logistics in these matters [D.I. No. 11229]. In light of very recent developments, the Claimants do, however, oppose the timing of the mediation as being premature.

3. Counsel for the Claimants learned late last week that the Federal Deposit Reserve Corporation (“FDIC”) has inserted itself into these proceedings and has placed WMI Liquidating Trust (“WMILT” or the “Trust”) on notice that any settlement payments made to any of the employee claimants will need to be separately approved by the FDIC.

4. During a telephone call on Tuesday April 30, 2013, counsel for WMILT confirmed to counsel for the Claimants that the FDIC has taken this position with respect to settlements that have been already reached with the settling group of employee claimants.² Counsel for WMILT further represented that WMILT is not willing to make distributions at this time to the group of settling employee claimants unless either (1) the FDIC approves the settlement or (2) the settling claimant agrees to indemnify the Trust against any action taken by the FDIC in connection with a settlement distribution.

5. The Claimants do not agree that the regulations cited by WMILT require FDIC approval of settlements or distributions of allowed claims in the matter. Nevertheless, counsel for WMILT has made clear that the Trust would be unwilling to make any distribution to any Non-Settling Responding Claimant, even if agreement were reached at mediation, without FDIC approval.

6. In light of these recent developments, the Claimants are concerned about the prospects of the mediation. In counsel’s experience, mediations are most successful when the parties are able to negotiate a binding resolution. However, with the uncertainty of the FDIC’s

² This telephone conversation took place between Brian Rosen of Weil Gotshal & Manges LLP and Stephan Kyle of the Kyle Law Corporation.

position in these matters, it does not appear that a binding settlement (resulting in certain distribution) could be achieved at the mediation. For these reasons, the Claimants do not believe it would be prudent for the parties to invest the time and resources to mediate the claims of the Non-Settling Responding Claimants until such time as the FDIC issue has been resolved.

WHEREFORE, for all of the above reasons, the Claimants request that the Court refrain from entering the Proposed Order Appointing Mediator until such time as a determination has been made regarding the FDIC's position regarding settlement of the employee claims.

Dated: May 2, 2013
Wilmington, Delaware

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CERTIFICATE OF SERVICE

I, Michael J. Joyce, hereby certify that on this 2nd day of May, 2013, I caused copies of the foregoing *Limited Objection to Entry of Proposed Order Appointing a Mediator with Respect to Employee Claims and Pending Omnibus Objections* to be served on the parties listed below via CM/ECF and electronic mail.

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