

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)
)	
)	Re: Docket Nos. 11213, 11240 & 11249
Debtors.)	Hearing Date: May 23, 2013
)	
)	

**CERTIFICATION OF COUNSEL REGARDING AGREED ORDER (1) GRANTING
MOTION TO ANTHONY VUOTO TO AMEND PROOF OF CLAIM NO. 997 AND (2)
DENYING MOTION TO REINSTATE CLAIM NO. 159**

The undersigned certifies as follows:

1. On April 18, 2013, Claimant Anthony Vuoto (“Vuoto”) filed his motion for an Order (1) Granting Amendment to Proofs of Claim Regarding Additional Theories of Recovery Based Upon the WaMu Executive Officer Severance Plan and the WMI Executive Target Retirement Income Plan, and (2) Reinstating Claim No. 159 and Vacating Order Disallowing Claim [D.I. No. 11213] (the “Motion”).

2. On May 8, 2013, the WMI Liquidating Trust (“WMILT”) filed its Limited Omnibus Objection to Certain Employee Claimants’ Motions to Amend [D.I. No. 11240] (the “Limited Objection”).

3. On May 17, 2013, counsel for Vuoto filed a Joint Reply of Providian Employee Claimants to WMI Liquidating Trust’s Limited Omnibus Opposition to Motions to Amend [D.I. No. 11249] (the “Joint Reply”).

4. The Court heard oral argument on the Motion on May 23, 2013.

¹The Debtors in this Chapter 11 case are Washington Mutual, Inc. and WMI Investment Corp.



5. Vuoto and WMILT have reached agreement as to the form of proposed order granting, in part, the Motion (the "Proposed Order"), as attached hereto as Exhibit A.

WHEREFORE undersigned counsel respectfully requests that the Court enter the Proposed Order at its earliest convenience.

Dated: May 31, 2013
Wilmington, Delaware

CROSS & SIMON, LLC

By:  _____

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EXHIBIT A

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

In re:) Chapter 11
)
WASHINGTON MUTUAL, INC., *et al.*,) Case No.: 08-12229 (MFW)
) (Jointly Administered)
)
Debtors.)
)
_____) **Re: Docket Nos.** _____

ORDER

Upon the motion, dated April 18, 2013 (the "Motion"), of Claimant Anthony Vuoto ("Claimant") for entry of an order (1) granting leave to amend his claim no. 997 to the extent necessary to seek an additional theory of recovery under the Executive Officer Severance Plan (the "EOSP"), to include a claim under the WMI Executive Target Retirement Income Plan (the "ETRIP"), and to restate his claim for contractual benefits under his WMI Change in Control Agreement (the "CIC Agreement") and (2) reinstating his claim no. 159 with respect to benefits under the WMI Supplemental Executive Retirement Accumulation Plan (the "SERAP"), and vacating the Court's prior order disallowing the claim [Docket No. 5818] (the "Prior Order"), as more fully set forth in the Motion [D.I. No. 11213] and the Reply [D.I. No. 11249], pursuant to Bankruptcy Rule 7015; the Court finding that it has jurisdiction over this matter and the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that due and proper notice of the Motion and the relief requested therein having been given, and no other or further notice need be given, and all parties in interest having been heard or having been afforded an opportunity to be heard; and the Court having determined that the legal and factual bases set forth in the Motion establishes just cause for the relief granted herein; and the Court having determined that good and just cause appears in favor of granting the Motion in part;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED in part, and DENIED in part as set forth herein;
2. The Motion to Amend Claim No. 997 is GRANTED. Claimant Anthony Vuoto is hereby granted leave to file an amended proof of claim (1) to include an alternate claim for compensation under the EOSP, (2) to add a claim for benefits arising under the ETRIP, (3) to restate the amount of his claim under the CIC Agreement to include certain components of compensation that were inadvertently omitted or improperly calculated in Claim No. 997 and to include other contractual benefits under the CIC Agreement, and (4) to restate his claim to include a reference to his intent to seek recovery of his attorney fees and expenses under his applicable agreements and benefit plans, as set forth in the Motion and the Reply (collectively, the "Amended Components"), within 15 days of the entry of this Order;
3. Claimant's amended proof of claim will relate back to the bar date established in these cases, March 31, 2009;
4. WMI Liquidating Trust ("WMILT"), as successor in interest to Washington Mutual, Inc. and WMI Investment Corp., formerly debtors and debtors in possession, may file an objection (the "Objection") to the amended proof of claim solely with respect to the Amended Components on or before July 12, 2013, unless otherwise agreed to by the applicable parties or ordered by the Court;
5. Claimant shall file a response, if any, to any Objection on or before September 16, 2013, unless otherwise agreed to by the applicable parties or ordered by the Court;
6. The parties may take additional discovery solely with respect to the Amended Components;

7. WMILT is granted leave to bring additional adversary proceedings related solely to the Amended Components no later than July 12, 2013, unless otherwise agreed to by the applicable parties or ordered by the Court;

8. Claimant's deadlines to answer or otherwise respond to additional adversary proceedings filed by WMILT (if any) with respect to the Amended Components shall be governed by the Federal Rules of Bankruptcy Procedure;

9. Claimant hereby waives the invocation of any defense based on the running of any statute of limitation, statute of repose, period of prescription, contractual period of limitation, laches, and any other rule or doctrine, at law or in equity, relating to the timeliness of any claims that could have been timely asserted by WMILT solely with respect to adversary proceedings related to the Amended Components.

10. The Motion to Reinstate Proof of Claim No. 159 and to Vacate the Court's Prior Order [D.I. No. 5818] is DENIED;

11. This Order is without prejudice to the rights of any party to seek additional relief from this Court; and,

12. This Court shall retain jurisdiction with respect to any matters related to or arising from the implementation of this Order.

Dated: _____, 2013
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE