

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bruce T. Beesley



Honorable Bruce T. Beesley
United States Bankruptcy Judge

Entered on Docket
June 14, 2012

GORDON SILVER
GERALD M. GORDON, ESQ., Nevada Bar No. 229
E-mail: ggordon@gordonsilver.com
WILLIAM M. NOALL, ESQ., Nevada Bar No. 3549
E-mail: wnoall@gordonsilver.com
THOMAS H. FELL, ESQ., Nevada Bar No. 3717
E-mail: tfell@gordonsilver.com
KIRK D. HOMEYER, ESQ., Nevada Bar No. 12402
E-mail: khomeyer@gordonsilver.com
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
Telephone (702) 796-5555
Facsimile (702) 369-2666
Attorneys for Debtor

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:
AHERN RENTALS, INC.,
Debtor.

Case No.: 11-53860-BTB
Chapter 11

Initial Hearing
Date: March 12, 2012
Time: 2:00 p.m.

Initial Continued Hearing
Date: April 23, 2012
Time: 2:00 p.m.

Continued Hearing
Date: June 1, 2012
Time: 2:00 p.m.

ORDER APPROVING AMENDED MOTION FOR ORDER, PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE AND LOCAL RULE 9019, REQUIRING EACH PERSONAL INJURY CLAIMANT ATTEND AND PARTICIPATE IN A SETTLEMENT CONFERENCE AS A CONDITION PRECEDENT TO RELIEF FROM THE AUTOMATIC STAY



1 Ahern Rentals, Inc., a Nevada corporation, debtor and debtor-in-possession (“Debtor”),
2 filed its *Amended Motion for Order, Pursuant to Section 105(a) of The Bankruptcy Code and*
3 *Local Rule 9019, Requiring Each Personal Injury Claimant Attend and Participate In a*
4 *Settlement Conference as a Condition Precedent to Relief from the Automatic Stay*
5 [ECF No. 721] (the “Motion”)¹ on May 9, 2012. The Motion, having come on for hearing before
6 this Court on June 1, 2012, the Debtor having been represented by Thomas H. Fell, Esq. of the
7 law firm of Gordon Silver, and other appearances as duly noted on the record; the Court having
8 reviewed the Motion filed by the Debtor and noting that no opposition had been filed, the Court
9 stated its findings of fact and conclusions of law on the record at the hearing, which findings of
10 fact and conclusions of law are incorporated herein by this reference in accordance with Rule 52
11 of the Federal Rules of Civil Procedure, and made applicable to this proceeding by Rule 9014 of
12 the Federal Rules of Bankruptcy Procedure; and good cause appearing therefor;

13 IT IS HEREBY ORDERED as follows:

14 1. The Motion is GRANTED in its entirety.

15 2. The automatic stay imposed by Section 362(a) of the Bankruptcy Code is hereby
16 modified for the limited purpose to permit Claimants, who seek relief from the automatic stay to
17 liquidate their PI Claims in a nonbankruptcy forum, to participate in a Settlement Conference
18 with (i) The Honorable Judge Gregg W. Zive, (ii) The Honorable Magistrate Judge Robert A.
19 McQuaid, Jr., or (iii) any other judge selected by the Court.

20 3. If a Claimant and Debtor cannot mutually agree to one of the foregoing judges,
21 the Court, in its discretion, shall select the judge to conduct the Settlement Conference.

22 4. Participation in a Settlement Conference by each Claimant shall be a condition
23 precedent to the Court granting the respective Claimant relief from the automatic stay to
24 liquidate his or her PI Claim in a nonbankruptcy forum; provided, however, that the Court or
25 Debtor may waive such Settlement Conference condition precedent for good cause shown.

26 5. This Court retains jurisdiction to interpret and enforce this Order.

27
28 ¹ All capitalized terms not otherwise defined herein shall have those meanings ascribed in the Amended Motion.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PREPARED AND SUBMITTED:

~~APPROVED/DISAPPROVED~~

GORDON SILVER

COVINGTON & BURLING LLP

By:

GERALD M. GORDON, ESQ.
WILLIAM M. NOALL, ESQ.
THOMAS H. FELL, ESQ.
KIRK D. HOMEYER, ESQ.
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
Attorneys for Debtor

By:

/s/ Joshua M. McKarcher
JOSHUA M. MCKARCHER, ESQ.
1201 Pennsylvania Avenue NW
Washington, DC 20004-2401
Attorneys for the Official Committee of
Unsecured Creditors

and

DOWNEY BRAND LLP
SALLIE B. ARMSTRONG, ESQ.
427 West Plumb Lane
Reno, Nevada 89509
Attorneys for the Official Committee of
Unsecured Creditors

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LR 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court’s ruling and that (check one):

- The court waived the requirement of approval under LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion.
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

JOSHUA D. MCKARCHER, ESQ. Counsel for the Official Committee of Unsecured Creditors	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Failed to respond
--	--

- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objection to the form or content of the order.

###