

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Case No. 95-cv-00777-REB-CBS

In re: Receivership Estate of INDIAN MOTORCYCLE  
MANUFACTURING, INC., a New Mexico corporation,

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**ORDER MAKING ABSOLUTE ORDER TO SHOW CAUSE**

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**Blackburn, J.**

The matter before me is the Receiver's **Response to Order To Show Cause** [#2328], filed July 24, 2006. The Receiver was ordered to show cause why his proposed **Amended Complaint** [#2306], tendered July 10, 2006, should not be stricken. (**Order To Show Cause** [#2312], entered July 13, 2006.) Therein, I believe I made plain my principal concern with the filing of the amended complaint: "It is unclear by what authority the Receiver believes it is entitled to file an amended complaint at this extremely late date *without first obtaining leave of court.*" **Id.** (emphasis added).

Despite filing a 27 page response, the Receiver never squarely addressed this issue.<sup>1</sup> Nor has the Receiver ever sought leave of court to file such an amended complaint in the two and one-half years that have elapsed since the show cause order was issued.<sup>2</sup> This court has never considered the proposed Amended Complaint, or its concomitant claims for relief, to be properly filed in this case, or in any way operative or

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<sup>1</sup> Moreover, it is apparent from its more recent filings that the Receiver plainly understood the court's concerns. **See Reply in Support of Motion To Terminate Receivership** at 2 n.2 [#2726], filed December 22, 2008 ("The receiver believed it was entitled to file a First Amended Complaint as a matter of right[.]")

<sup>2</sup> In fact, that Receiver admits that it "had, quite frankly, forgotten all about" the Amended Complaint. (**Reply in Support of Motion To Terminate Receivership** at 2 n.2 [#2726], filed December 22, 2008.)

effective. Accordingly, the extant order to show cause should be made absolute.

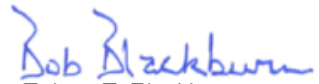
**THEREFORE, IT IS ORDERED** as follows:

1. That my **Order To Show Cause** [#2312], issued July 13, 2006, is **MADE ABSOLUTE**; and

2. That the proposed **Amended Complaint** [#2306], tendered July 10, 2006, is **STRICKEN**.

Dated January 28, 2009, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge