

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

IN RE: AFA Investment Inc., et al.

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|--|---|------------------------------|
| Greater Omaha Packing Co., Inc., et al., | : |                              |
|  | : |                              |
| Appellants,                              | : |                              |
|  | : |                              |
| v.                                       | : | C. A. No. 13-1416-RGA        |
|  | : | Bankruptcy Case No. 12-11127 |
| AFA Investment Inc., et al.,             | : | BAP No. 13-72                |
|  | : |                              |
| Appellees.                               | : |                              |

**RECOMMENDATION**

At Wilmington this **2<sup>nd</sup>** day of **December, 2013**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included written information from counsel submitted on August 29, 2013, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, and the parties' joint request for referral to mediation, a recommendation for referral to the Appellate Mediation Panel was made, which was adopted by Judge Andrews on October 4, 2013.

WHEREAS, since the referral, the Panel mediator and the parties held several teleconferences, as well as separate communications among the parties without the Panel mediator. As a result of those communications, the parties and the Panel mediator concluded mediation would not help resolve the appeal, and mediation at this

stage would not be a productive exercise, nor warrant the expense of the process. The parties made a joint request to withdraw this matter from the mandatory mediation process by letter dated November 26, 2013.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. In light of the parties' joint request, it is not anticipated the parties will file objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

IT IS FURTHER RECOMMENDED that the parties' proposed briefing schedule as contained in their joint letter of November 26, 2013 be adopted. The proposed schedule is as follows:

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| January 13, 2014  | Appellants' opening brief on appeal due<br>Appellee' opening brief on motion to dismiss due      |
| February 13, 2014 | Appellees' response brief due<br>Appellants' response brief to Appellants' motion to dismiss due |
| March 6, 2013     | Appellants' reply brief due<br>Appellees' reply brief in support of their motion to dismiss due  |

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE