

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: Variant Holdings Company, LLC :

Debtor. :

Conix WH Holdings, LLC, et al. :

Appellants, :

v. :

Variant Holdings Company, LLC, et al.,
Appellees. :

C. A. No. 15-513-GMS
BAP No. 15-22

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2015 JUL 21 PM 3:39

RECOMMENDATION

At Wilmington this 21st day of July, 2015.

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 information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

The parties request that this matter be removed from mandatory mediation and do not believe further mediation would be constructive. On July 15, 2015 the parties to this appeal participated in mediation in an attempt to resolve the issues underlying this

appeal. The mediation involved not only counsel, but client representatives. The mediation was unsuccessful.

Appellees Variant and Beach Point Funds request that the appeal progress as expeditiously as conveniently possible. There is concern that prompt resolution of this appeal is needed to protect the interests of tenants of the subject properties being sold.

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Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court.

IT IS FURTHER RECOMMENDED at the request of the parties, that the following briefing scheduled be entered:

Appellants' Opening Brief	August 7, 2015
Appellees' Answering Brief	August 21, 2015
Appellants' Reply Brief	September 4, 2015

Through this Recommendation, the parties were advised of their right to 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 doubtful any objections will be filed since the parties were in agreement regarding removal from mandatory mediation and the briefing schedule.

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

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE