

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

Millennium Lab Holdings II, LLC et al.

Debtor.

The Opt-Out Lenders

Appellant,

v.

Millenium Lab Holdings II, LLC et al.  
Appellees.

C. A. No. 16-110  
BAP No. 15-79

FILED  
CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2016 APR -5 AM 10: 35

RECOMMENDATION

At Wilmington this 5<sup>th</sup> day of April, 2016.

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.

During the pendency of the chapter 11 matters before Plan confirmation, the parties engaged in settlement discussions, but despite these continued efforts, were unable to reach agreement on settlement. The parties do not believe mediation would

be beneficial and request that the appeal be removed from mandatory mediation. They further request that the following briefing schedule be entered:

- |                |   |
|----------------|---|
| April 15, 2016 | Deadline for Appellants opening appellant brief and deadline for Appellees opening briefs on motions to dismiss appeal.                               |
| May 20, 2016   | Deadline for Appellants to file opposition briefs regarding motions to dismiss appeal and deadline for Appellees to file opposition appellate briefs. |
| June 10, 2016  | Deadline for Appellants to file reply appellant briefs and deadline for Appellees to file reply briefs in support of motions to dismiss appeal.       |

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Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court.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 request to remove this matter from mandatory mediation, no objections are likely to be filed to this Recommendation.

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

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE