

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

In re:	:	
	:	Bankr. Case No. 14-10979 (CSS)
ENERGY FUTURE HOLDING CORP.,	:	
et al.,	:	
	:	
Debtors.	:	
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SHIRLEY FENICLE, et al.,	:	
	:	
Appellants,	:	
	:	
v.	:	C. A. No. 16-888-RGA
	:	BAP No. 16-47
ENERGY FUTURE HOLDINGS CORP.,	:	
et al.,	:	
	:	
Appellees.	:	

**RECOMMENDATION**

At Wilmington this **31st** day of **October, 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, a teleconference were held on October 25, 2016 for an initial review and discussion with counsel to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, including review of the parties' joint letter regarding mediation and extensive telephonic discussion with counsel, 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.

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Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. 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. If any objections are filed, they shall be done within **five (5) days** of this Recommendation and are limited to **three (3) pages**. The objections may be done in letter format and captioned and docketed as “Objections to the Recommendation dated [date].” Any response shall be due within **five (5) days** of the objections and are limited to **three (3) pages**. The response to the objections may be in letter format and captioned and docketed as “Response to Objections to the Recommendation dated October 31, 2016.”

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

/s/ Mary Pat Thyng  
Chief U.S. Magistrate Judge Mary Pat Thyng