

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

In re:	:	Chapter 11
	:	
URSA OPERATING COMPANY, LLC,	:	Bankruptcy Case No. 20-12067 (BLS)
	:	
Debtor.	:	
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THE ROYALTY CLAIMANTS,	:	
	:	
Appellants,	:	
	:	
v.	:	C.A. No. 21-495-MN
	:	
URSA OPERATING COMAPNY LLC,	:	
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this **5th** day of **April, 2021**.

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.

This matter arises out of the chapter 11 cases filed by Appellee and certain of its

affiliates (the Debtors). On December 17, 2020, the Debtors filed their First Omnibus (Substantive) Objection to the Classification of Claims under Section 502 of the Bankruptcy Code, Bankruptcy Rule 3007 and Local Rule 3007-1, referred to herein as the Claim Objection. This Objection sought reclassification of the claims filed by Appellants from secure claims to general, unsecured claims.

On January 8, 2021, the Debtor's plan of reorganization was confirmed by the Bankruptcy Court. On the same day, Appellants' commenced adversary proceedings against Appellee which requested declaratory relief that the unpaid royalties giving rise to their claim were not property of the bankruptcy estate. A hearing in the Bankruptcy Court occurred on March 8, 2021 and on March 11, 2021 Judge Brendan L. Shannon issued a bench ruling that Appellants were holder of general, unsecured claims and their royalty claims were against the property of the bankrupt estate. this bench ruling was memorialized in an Order issued by Judge Shannon on March 30, 2021.

Thereafter, on April 2, 2021, Appellants filed an appeal to the aforementioned Order and also filed their emergency Motion for Stay Pending Appeal. A hearing occurred on the Motion for Stay on April 2, 2021, which resulted in the Bankruptcy Court entering an Order denying the Motion for Stay, but provided for a further 21 day stay of the Order as a courtesy to this Court. Appellants filed an Emergency Motion for Stay Pending Appeal in this Court and briefing was completed by April 27, 2021.

Thereafter, on May 4, 2021 Judge Maryellen Noreika issued a Memorandum Opinion and Order at D.I. 21 and 22 denying the emergency motion to stay and granting the motion to intervene at D.I. 18, which was filed by Wells Fargo Bank on April 30, 2021.

The parties do not believe that mediation would be worthwhile nor productive

because the Appeal Parties have previously attempted to consensually resolve issues relating to the Clam Objection and the Appeal without success.

Further, the Appeal Parties are unable to agree on a briefing schedule. Appellee proposes as follows: Initial Brief due by May 21, 2021; Answering Brief due by June 11, 2021 and Reply Brief due by June 25, 2021. Appellants propose the following briefing schedule: Initial Brief by June 18, 2021; Answering Brief by July 30, 2021 and Reply Brief by August 20, 2021.

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. No objections are anticipated 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 since the Recommendation is consistent with the parties request.

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