

The parties do not agree of whether mediation would be productive. Appellant believes it would not based on its disagreement with the Bankruptcy Court's ruling and the potential business implications under the Assets Purchase Agreement. As a result, it requests this matter be removed from mandatory mediation and the following briefing schedule be adopted:

Appellant's Opening Brief	September 30, 2021 ¹
Appellees Answering Brief	November 1, 2021
Appellant's Reply Brief	November 16, 2021

Appellee agrees with the lower court's ruling and believes that the matter could be effectively mediated including the business implications under the Asset Purchase Agreement. Certain necessary financial information previously requested would be required to allow the greatest chance of success for mediation. If this matter is removed from mandatory mediation, however, he agrees to the proposed briefing schedule of Appellant.

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Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court.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

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

¹ Appellant requests a time of 4:00 p.m. for filing of each of the briefs on their due dates.

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