

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CABUYA CHEROKEE, SA, CABUYA DELAWARE, SA, CABUYA FLORIDA, SA, CABUYA SOLUE, SA, CABUYA SPRUCE, SA, CABUYA SUWANEE, SA, CIRCUITO INICIAL CUATRO HAS, SA, DULCE VERDE TROPICAL DEL PACIFICO, SA, EL AREA FINAL, SA, FRENTE VERDE, SA, INMOBILIARIA CEROS Y UNOS, SA, INVERSIONES FONDO AZUL DEL PACIFICO, SA, PLAYA COCOS DE MONTEZUMA, SA, PLAZA ARENA SOL, SA, TERRENO JOTA ZETA, SA, VISTA CABUYA JG, SA, VO Y ZETA TERRENOS, SA, VESPER BELL, LIMITADA, JERRY SARBO, AMERICAN TRANSWORLD CORPORATION and BETH BASHAM,

Appellants,

v.

Case No: 8:13-cv-2942-T-30

JEFFREY DAVID VOGT, JEANETTE MELANIE VOGT, CHED EDWARD VOGT and SUSAN K. WOODARD,

Appellees.

ORDER

THIS CAUSE comes before the Court upon the Appellants' Motion for Leave to Appeal (Dkt. #1-1) and Appellees' Answer (Dkt. #1-2). Appellants seek leave to appeal the judgments of the Bankruptcy Court titled Order Granting Amended Motion for Partial Summary Judgment and Denying Cross-Motion for Summary Judgment dated January 25,

2013, and Memorandum Opinion and Order Denying Motion for Reconsideration of Summary Judgment dated August 28, 2013. Appellees argue that these Orders are not appropriate for interlocutory appeal.

A district court may grant leave to appeal an interlocutory order if the subject issue “(1) involves a controlling question of law, (2) as to which there is a substantial ground for difference of opinion, and (3) is such that an immediate appeal would advance the ultimate termination of litigation.” *Figueroa v. Wells Fargo Bank N.A.*, 382 B.R. 814, 823-24 (S.D. Fla. 2007). Here, Appellants have satisfied all three grounds on at least one issue – whether the Order in the previous bankruptcy case, case number 8:09-bk-03513-MGW, entitled Order Determining Debtor in Default Under Settlement Agreement And That American Transworld Corporation Is Entitled To Immediate Turnover Of Entrusted Assets, Requiring Debtor To File Supplemental Documentation Regarding Compliance With Supplemental Order Enforcing Settlement Agreement (Dkt. #316), entered on April 2, 2010, is entitled to *res judicata* effect. That issue involves a controlling question of law for which there is a substantial ground for difference of opinion and for which an immediate appeal will advance the ultimate termination of this litigation.

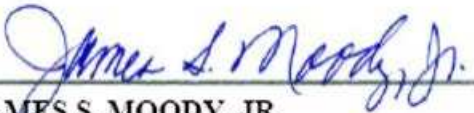
The parties may address whatever issues they wish in this appeal, but are directed to focus on the issue identified. Further, the parties should address whether this issue was properly addressed in the Bankruptcy Court prior to the entry of the Orders appealed and whether it may now be addressed for the first time in this appeal.

It is therefore ORDERED AND ADJUDGED that:

1. Appellants’ Motion for Leave to Appeal (Dkt. #1-1) is GRANTED.

2. The Clerk shall docket the record on appeal.
3. The Appellants shall file their Brief within fourteen (14) days of the record on appeal being docketed.

DONE and **ORDERED** in Tampa, Florida, this 1st day of May, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Bankruptcy Judge Michael Williamson
Bankruptcy Clerk of Court
Counsel/Parties of Record

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