

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

OFFICIAL COMMITTEE OF)	
UNSECURED CREDITORS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 1:18-cv-00068-NT
)	
CALPERS CORPORATE PARTNERS)	
LLC, <i>et al.</i> ,)	
)	
Defendants.)	

REPORT OF FINAL PRETRIAL CONFERENCE AND ORDER

A final pretrial conference was held on March 4, 2021, via videoconference before Judge Torresen. Jeremy Fischer, Melissa Hewey, and Jay Geller appeared for the Plaintiff, and Paul Werner, Anthony Manhart, Edward Tillinghast, Danielle Vrabie, Hannah Wigger, and Rena Andoh appeared for the Defendant, CalPERS Corporate Partners. The following matters were addressed and will govern the trial of this case.

I. Case Description

In this case, Plaintiff Official Committee of Unsecured Creditors seeks to avoid and recover two distributions made by Lincoln Paper and Tissue LLC (“Debtor”) to members of the Debtor’s parent holding company, including the Defendant, CalPERS Corporate Partners LLC. The Plaintiff contends that these distributions were constructively fraudulent transfers and seeks to recover the total value of the transfers (\$2,457,035.00), plus prejudgment interest, attorneys’ fees, and related collection costs. The parties have stipulated that each distribution constituted a transfer of an interest of the Debtor in property and that the Debtor received less than a reasonably equivalent value. The remaining questions—to be determined by the jury—are whether the Debtor was insolvent or became insolvent as a result of the transfers, was left with unreasonably small capital after the transfers, or reasonably believed or should have believed that it would incur debts following the transfers that it would be unable to pay as they came due. The

Defendant asserts that the Plaintiff will be unable to establish any of these financial conditions.

II. Trial Preparation

- A. Discovery. Discovery is complete. No outstanding discovery issues were identified at the conference.
- B. Pretrial Briefing. Each party shall file by April 1, 2021, a brief setting forth its position on the significant remaining legal issues that were discussed at the conference. Each brief shall not exceed fifteen pages. Each party may file a responsive brief by April 15, 2021.
- C. Motions in Limine. Any motions in limine shall be filed by July 22, 2021, and any objections shall be filed by July 29, 2021.
- D. Maximum Number of Trial Days. The case will require no more than five (5) full trial days.

III. Trial Schedule

- A. Trial Period. The case will be tentatively placed on the August 2021 Trial List. Due to the uncertain circumstances of the COVID-19 pandemic and the priority of the Criminal Trial List, counsel have been advised that an August trial date is not guaranteed.
- B. Jury Selection. The jury will be selected on August 3, 2021, at 9:00 am.
- C. Tentative Trial Start Date. The trial is tentatively scheduled to begin in August 2021. A trial start date will be set closer to the trial period. Trial days will commence at 8:30 a.m. and end at 2:30 p.m.
- D. Settlement Notice. The parties shall inform the clerk's office whether the case is settled or firm for trial by July 1, 2021.

IV. Trial Process

- A. Stipulations. The parties shall file any agreed-to stipulations by July 29, 2021.

- B. Depositions. The parties shall exchange designated deposition transcripts or videos that they intend to use at trial by July 12, 2021. Any objection to the admissibility of a deposition transcript or video and any counter-designations shall be filed by written motion by July 19, 2021. Any objections to counter-designations shall be filed by July 26, 2021.
- C. Exhibits. The parties shall exchange exhibits by July 19, 2021. The parties shall jointly prepare a consolidated list of all exhibits to be offered at trial, employing the form available on the Court's website—<http://www.med.uscourts.gov/>—by July 29, 2021. In a jury case, the original set of exhibits is ordinarily sufficient and shall not be filed before trial; in a non-jury case, one extra set shall be filed for the Judge to review in advance of the trial. *See* Local Rule 16.4(d).
- D. Witnesses. Each party shall file its witness list by July 29, 2021. For each witness, the list shall indicate (i) the witness's name and address; (ii) whether the witness is a fact witness or an expert witness; (iii) a concise statement of the general subject matter of the witness's testimony; and (iv) an estimate of the time required for the direct examination of the witness.
- E. Jury Voir Dire. The parties shall file any proposed supplemental voir dire questions for the jury panel and any request for a case-specific written questionnaire for prospective jurors by May 31, 2021. The parties are requested not to propose questions that are addressed in the Confidential Jury Questionnaire. The Court will hold a teleconference with counsel on June 3, 2021, to discuss proposed questions, and a conference will be scheduled after the case-specific questionnaires are received to discuss challenges for cause.
- F. Jury Instructions. The parties shall submit proposed jury instructions by July 29, 2021. Proposed instructions shall be stated in separate paragraphs and numbered sequentially. Following the text of a proposed instruction, any applicable statutory or case authority for the requested instruction shall be provided. The opposing party may submit a concise statement of any opposing authority by August 3, 2021.
- G. Special Verdict Form. If a verdict form is requested, the parties shall prepare an agreed-upon verdict form and submit the same to the court by July 29, 2021. In the absence of an agreement, the parties shall submit separate proposed special verdict forms by that date.

- H. Juror Notebooks. The court may permit the jurors to take notes in individual notebooks. The notebooks include a glossary of common legal terms such as “sidebar,” and a guide entitled “Suggestions for Jury Deliberation.” The parties are encouraged to review the glossary and submit by July 27, 2021, any proposed additional glossary terms that are specific to the case and would be helpful to the jury. Any objection to the use of the glossary, guide, or proposed additional glossary terms shall be submitted July 29, 2021.
- I. Trial Management Conference. The parties may request an additional trial management conference by contacting the clerk’s office.

SO ORDERED.

/s/ Nancy Torresen
United States District Judge

Dated this 5th day of March, 2021.