

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM D. MUNDINGER TRUST)
U/A, ET AL.,)

CASE NO.4:08CV1226

Plaintiff,)

JUDGE CHRISTOPHER A. BOYKO

Vs.)

THE TRUSTEE, RICHARD G.)
ZELLERS, ET AL.,)

ORDER

Defendant.)

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on the Joint Proposed Plan Submitted Pursuant to Order of Court Dated May 5, 2009 (ECF #81). Pursuant to the Joint Proposed Plan, the parties request the Court adopt the following procedure:

1. Lamson will file an Amended Proof of Claim in the YSDI bankruptcy case under F.R.B.P. No. 3002 ("**Amended Proof of Claim**");
2. Within ten (10) days of the filing of the Amended Proof of Claim, parties who wish to object to the Amended Proof of Claim shall file objections with the Bankruptcy Court under F.R.C.P. (sic) No. 3007 ("**Objection to Claim**");
3. The parties agree that each have the right and standing to object to the Amended Proof of Claim;
4. Within five (5) days after the filing of the Objection to Claim, under F.R.C.P. (Sic) No. 3007(b), the parties will file a joint motion with the Bankruptcy Court seeking to consolidate the Objection to Claim with the current adversary proceeding pending before this Court ("**Joint Motion to Consolidate**");
5. Upon entry of an order by the Bankruptcy Court approving the Joint Motion to Consolidate, the parties will file a motion with this Court to deem as re-filed the cross motions for summary judgment which had been withdrawn by this Court by order dated March 6, 2009;

6. The Objection to Claim shall become part of the record on the cross motions for summary judgment and shall be ruled upon by the District Court;
7. The parties agree that no additional briefing on the cross motions for summary judgment is necessary and the parties will rest on the record as it existed when the cross motions for summary judgment were withdrawn by the this (sic) Court supplemented by the Objections to Claim referenced above in paragraph 6;
8. The parties agree that the Objection to Claim will be decided by this Court without a jury trial; and
9. Upon orders being entered by this Court on the cross motions for summary judgment, the parties are ready for trial, if necessary.

Upon consideration of the Joint Proposed Plan the Court finds that the Amended Proof of Claim and any Objections to it are best decided by the Bankruptcy Court in light of that Court's authority to allow or disallow claims and rule on Objections and in light of the United States Supreme Court's holding in *Granfinanciera v. Nordberg*, 492 U.S. 33 (1989). Upon a determination by the Bankruptcy Court on the Amended Proof of Claim and any Objections, the parties will proceed with filing their Motion to Refile the Motions for Summary Judgment previously filed with this Court.

The Court Orders the parties to show cause why the adversary proceeding before this Court should not be stayed pending a determination by the Bankruptcy Court whether to allow or disallow the Amended Proof of Claim. Parties shall file their briefs no later than July 28, 2009. The briefs shall not exceed five pages.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

July 15, 2009