Docket #0165 Date Filed: 10/23/2023

United States Courts
Southern District of Texas
FILED

OCT 23 2023

Nathan Ochsner, Clerk of Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re:	
Tehum Care Services, Inc	Case No: 23-90086 (CML)
	CHAPTER 11
Debtor.	
Anant Kumar Tripati	Adv. Pro. No. 23-03072 (CML)
Plaintiff,	
Vs.	
Sarah Tirschwell, et al.,	
Defendants.	

MOTION TO HOLD DEFENDANTS IN CONTEMPT FOR VIOLATING JUDGE LOPEZ'S ORDER OF AUGUST 27, 2023

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing. Represented parties should act through counsel.

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¶ The willful violation of this Court's order and misrepresentations, by Patrick M. Kemp Esq; and Robert G. Wall Esq highly experienced lawyers, who have practiced law since 2003 and 2010 respectively. (EX B, C) mandated Defendants be held in contempt of court and judgment by default be entered .

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In re Rollings 2008 Bankr. Lexis 993 (Bankr. SD Tx March 31, 2008) 2
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Satija v Page (in re Page) 2023 Bankr. Lexis 1949 (Bnakr. WD Tex 2023) 3
Stan v Marshall Chiang v Nelson (In re Death Row Records Inc) 2012 Bankr. Lexis 4948 (9th Cir. 2012) 3

MEET AND CONFER

¶ August 27, 2023 Judge Christopher Lopez issued the order marked EX A "It is, therefore, ORDERED that Defendant Scottsdale Insurance Company is directed to **file a responsive pleading** to Plaintiff's Complaint no later than October 3, 2003" (emphasis added)

¶September 12, 2023 Scottsdale filed ECF 144 and this is not a responsive pleading within the meaning of the August 27, 2023 order.

¶ ECF 153 filed September 27, 2023 is not a responsive leading within the meaning of the August 27, 2023 order.

¶ I informed them that they were in contempt and they failed to withdraw the filing.

JURISDICTION

¶ Bankruptcy Courts have power to hold parties in civil contempt Matter of Terrebone Fuel and Lube Inc, 108 F3d 609 (5th Cir. 1997) In re Jacobsen 2007 Bankr Lexis 4049 (ED Tex 2007)

DEFENDANTS ARE IN CONTEMPT OF THE PLAIN UNAMBIGUOUS LANGUAGE OF THE AUGUST 27, 2023 ORDER

¶"It is, therefore, ORDERED that Defendant Scottsdale Insurance Company is directed to **file a responsive pleading** to Plaintiff's Complaint no later than October 3, 2003" (emphasis added) is plain and clear (EX A)

¶ ECF 153 is a motion and not a responsive pleading within the meaning of Bankruptcy Rule7012. With their extensive experience, these lawyers, know this fact. They had the duty to withdraw this filing. (EX B, C)

¶ When a litigant intentionally violates a court order, that litigant is in contempt. In re Augustus 2007 Bankr Lexis 209 (Bankr. SD Tex 2007)

¶Final judgment may be entered when a litigant is in contempt Stan v Marshall Chiang v Nelson (In re Death Row Records Inc) 2012 Bankr. Lexis 4948 (9th Cir. 2012) and may also grant summary judgment. Satija v Page (in re Page) 2023 Bankr. Lexis 1949 (Bnakr. WD Tex 2023)

THE PROPER SANCTION

¶ The proper sanction is judgment by default for the relief prayed for in the complaint.

CONCLUSION

¶ By clear and convincing evidence I have shown Defendants are in contempt. Default should be entered for $90,000,000 plus treble damages.

Respectfully submitted,

Anant Kumar Tripati

The Plaintiff hereby certifies that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all parties requesting notice/ all parties who have entered appearance.

EXHIBIT A

United States Bankruptcy Court
Southern District of Texas
ENTERED
August 07, 2023
Nathan Ochsner, Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re: Tehum Care Services, Inc. *Debtor*	Case No.: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati *Plaintiff*, v. Sarah Tirschwell, et al., *Defendants*.	Adv. Pro. No. 23-03072 (CML)

ORDER GRANTING DEFENDANT SCOTTSDALE INSURANCE COMPANY'S MOTION FOR TIME EXTENSION TO RESPOND TO COMPLAINT

ON THIS DAY came to be heard Defendant Scottsdale Insurance Company's Motion for Time Extension to Respond to Plaintiff's Complaint. After reviewing the Motion, the Court finds that the Motion is well taken, and should be and is GRANTED.

It is, therefore, ORDERED that Defendant Scottsdale Insurance Company is directed to file a responsive pleading to Plaintiff's Complaint no later than October 3, 2023.

Signed: August 07, 2023

Christopher Lopez
United States Bankruptcy Judge

WED-72004 0541-4 pdf002 23-03072
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013609 13609 1 AB 0.534 85349 2 6 9933-1-13609

Anant Kumar Tripati
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EXHIBIT B

SEGAL McCAMBRIDGE



Patrick M. Kemp

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PDF Bio

Patrick Kemp represents insurance companies in insurance coverage and bad faith litigation arising out of a broad range of commercial and personal lines claims. He has extensive experience serving as lead counsel in first-party insurance lawsuits defending breach of contract, bad faith and statutory extra-contractual claims throughout Texas. He serves as chair of the firm's Insurance Coverage & Bad Faith practice group.

Patrick is an active member of several professional organizations including the State Bar of Texas Insurance Law Section, the Claims and Litigation Management Alliance and the Texas Association of Defense Counsel.

HONORS

- Rising Stars, 2009 – 2014

PROFESSIONAL & CIVIC INVOLVEMENT

- State Bar of Texas, Insurance Law Section
- Claims and Litigation Management Alliance (CLM)
- Texas Association of Defense Counsel

PRACTICE AREAS

- Appellate
- Complex Commercial Litigation
- Insurance & Reinsurance
- Insurance Coverage & Bad Faith

EDUCATION

- University of Houston Law Center, J.D., 2003
- Sam Houston State University, B.B.A., *summa cum laude*, 2000

ADMISSIONS

- Texas
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Western District of Texas
- U.S. Supreme Court

Representative Matters

- Secured a defense verdict for a homeowners insurer in a bad faith lawsuit in the Northern District of Texas arising out of a claim for hail damage to a home.
- Secured a favorable jury verdict for a commercial property insurer in a bad faith lawsuit in the Western District of Texas arising out of a claim for hail damage to multiple commercial properties.
- Secured a declaratory judgment for a commercial automobile insurer finding no coverage for a $17.5 million dollar underlying judgment and granting summary judgment on Stowers and Texas Insurance Code counterclaims brought by judgment creditors.
- Obtained a conditional writ of mandamus directing trial court to grant an automobile insurer's motion to abate severed bad faith and other extra-contractual claims.
- Secured summary judgment for a homeowners insurer in a bad faith lawsuit arising out of a hail claim in the Western District of Texas.
- Obtained judgment on the pleadings and summary judgment for a commercial property insurer on bad faith claims under Texas Insurance Code arising out of a claim in the Northern District of Texas for wind and hail damage to multiple metal commercial buildings.
- Secured defense verdict for a commercial property insurer in a bad faith lawsuit in the Northern District of Texas arising out of a wind claim to a ranch property.
- Secured summary judgment for a commercial property insurer on bad faith and Texas Insurance Code claims in the Eastern District of Texas arising out of wind and hail damage to a convenience store.
- Obtained order finding fraudulent misjoinder of a fire suppression system contractor in a bad faith lawsuit arising out of a business interruption claim by a commercial food product company in the Southern District of Texas.
- Secured a defense verdict for an automobile insurer in trial of Texas Deceptive Trade Practices Act claims arising out of a premium dispute with a policyholder in the County Courts of Bexar County, Texas.
- Secured summary judgment for a homeowners insurer in a bad faith lawsuit arising out of a sewage backup dispute in the Western District of Texas.
- Obtained a defense verdict for a mortgage lender in a lawsuit over construction funding in Harris County Courts, Texas.
- Secured summary judgment for a commercial property insurer in a bad faith lawsuit related to the applicability of an anti-concurrent causation clause in a foundation damage claim in the Western District of Texas.
- Obtained dismissal of Texas Insurance Code claims against an adjuster establishing improper joinder in the Northern District of Texas.
- Secured a defense verdict for an insurer in an arson trial in the Eastern District of Texas.
- Obtained summary judgment for a homeowners insurer on the insured's statutory bad faith and extra-contractual claims in a plumbing and dwelling foundation claim dispute in the Western District of Texas.
- Secured a directed verdict for an automobile insurer in a bad faith jury trial in Travis County District Court, Texas
- Secured a defense verdict for a national commercial mat distributor in a catastrophic personal injury lawsuit affirmed on appeal to the Fifth Circuit Court of Appeals.
- Obtained summary judgment for a commercial property carrier in a bad faith lawsuit in the Southern District of Texas related to Hurricane Ike damage to an insured's apartment complex.
- Obtained summary judgment for a commercial general liability insurer in a lawsuit brought by an insured construction subcontractor seeking to recover defense costs and indemnity in a construction defect lawsuit in the Southern District of Texas.
- Secured summary judgment on a business income loss claim in the Southern District of Texas by a consulting company following Hurricane Katrina.
- Had judgment rendered on appeal for excess commercial insurer on a claim of liability under Motor Carrier Safety Act MCS-90 endorsement in the Fifth Circuit Court of Appeals.

News & Events

NEWS 03.24.20

COVID-19: Coverage Impact for Workers Compensation and Employers Liability Insurers

Publications

Speaking Engagements

- "First-Party Property Claims – From Claim to Trial," State Bar of Texas Advanced Insurance Law Conference, 2018
- "Managing Disputes Among Liability Carriers," Webinar, 2012
- "Homeowners Claims: Roofers and Unlicensed Public Adjusters," Central Texas Insurance Seminar, 2012
- "Bad Faith in Liability Insurance," Property Loss Research Bureau/Liability Insurance Research Bureau Western Regional Adjusters Conference, 2009

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EXHIBIT C

SEGAL McCAMBRIDGE



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PDF Bio

Robert Wall concentrates his practice in the defense of insurance carriers and insurance professionals in first-party bad faith litigation. In addition to claims litigation, he has extensive experience working with clients on issues of coverage, pre-suit claims consultation, appraisal, subrogation and the defense of insureds under liability and professional liability policies.

Clients rely on Robert's experience to effectively manage risks prior to and after a disputed claim decision. He supports clients defending lawsuits arising from claims made on homeowners, business owners, commercial property and inland marine lines.

Robert manages a robust litigation docket, regularly trying cases that could not otherwise be resolved and obtaining prompt economic resolutions for his clients wherever possible. He assists clients prior to the initiation of litigation in navigating issues of coverage, statutory compliance, appraisal and other complex claims handling issues. His practice also includes matters involving the representation of insureds under professional liability and general liability policies.

PRACTICE AREAS

- Construction Litigation & Counseling
- First-Party Insurance Defense
- Insurance Coverage & Bad Faith
- Professional Liability

EDUCATION

- University of Colorado Law School, J.D., 2008
- Fort Lewis College, B.A., Business Economics, 2003

ADMISSIONS

- Texas
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, Colorado
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Western District of Texas

Representative Matters

- Obtained a defense verdict for a carrier that was low enough to preclude any recovery of attorneys' fees under Tex. Ins. Code § 542A, in a one-week federal jury trial on hail damage claim involving 27 commercial properties in Midland, Texas in a suit in the Western District of Texas.
- Obtained an order denying the recovery of attorney's fees for failure to send Tex. Ins. Code § 542A pre-suit notice in a Hurricane Harvey claim involving a farm equipment dealership with 16 affected locations on the Texas Gulf Coast in a suit in the Southern District of Texas.
- Obtained summary judgment for an insured restaurant in a dram shop action in Bexar County District Court, Texas, where the plaintiff was represented by a regional personal injury powerhouse.
- Obtained a zero-liability verdict for a carrier in a federal jury trial of a windstorm damage claim in a suit in the Northern District of Texas.
- Obtained an order denying a motion to remand based on a *Tapscott* fraudulent misjoinder analysis in a suit in the Southern District of Texas.
- Obtained dismissal of an action against an out-of-state common carrier under the Carmack Amendment preemption and personal jurisdiction in the Western District of Texas.
- Obtained summary judgment in a homeowner's bad faith lawsuit on a water damage claim in the Western District of Texas
- Obtained summary judgment in a commercial bad faith lawsuit over a foundation damage claim in the Western District of Texas.
- Obtained a jury verdict for the defense in an insurance fraud / bad faith diamond wholesaler case where contractual damage claims in the Northern District of Texas exceeded $580,000.
- Achieved dismissal of all extra-contractual claims in pretrial hearings and a zero-liability jury verdict on a contract claim.
- Obtained an order severing claims and compelling arbitration of a third-party defendant's cross claims against a carrier in a broker procurement dispute involving a $2 million dollar cargo loss in the Southern District of New York. Also obtained summary judgment on a third-party plaintiff's misrepresentation claims against a carrier.
- Obtained a zero-liability defense verdict after a one-week jury trial in a personal injury lawsuit involving medical damages in excess of $300,000 and a final pretrial demand from the plaintiff of $1.6 million in the Western District of Texas.

News & Events

NEWS 03.26.20

COVID-19 and Business Interruption Claims Under Commercial Property Insurance

NEWS 05.23.19

Austin Attorneys Robert G. Wall and Katherine M. Gonyea Obtain Victory in Pro Bono Trial

NEWS 03.01.19

Announcing the 2019 Segal McCambridge Singer & Mahoney Shareholder Promotions

Inmate [redacted]
ADC # [redacted]
Arizona State Prison Complex Yuma
Unit Lotus
Box [redacted]
Yuma AZ [redacted]

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Nathan Ochsner, Clerk of Court

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