

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

QUIGLEY COMPANY, INC.,

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/26/09
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09 Civ. 117 (CM) (DFE)

Debtor.

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ORDER DENYING AD HOC COMMITTEE OF TORT VICTIMS MOTION TO
PARTIALLY WITHDRAW THE REFERENCE

McMahon, J.

On January 7, 2009, the Ad Hoc Committee of Tort Victims (“AHC”) moved for an order pursuant to section 157(d) of the United States Code, and sections 105(a), 524(g), 1129 and 1142 of title 11 of the Bankruptcy Code to partially withdraw the reference in the above-captioned Chapter 11 case (Case No.04-15739 (SMB)) in order to allow this Court and the Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) to concurrently preside over a confirmation hearing concerning Quigley Company Inc.’s (“Quigley) Fourth Amended and Restated Plan of Reorganization (“Plan”).

As background, Quigley filed the Plan on March 28, 2008. The plan resolves all of Quigley’s liability for past, present and future Asbestos personal injury (“PI”) claims (as defined under the Plan). Under the Plan, the PI claims will be channeled to a trust that will be established on the Plan effective date. Bankruptcy Code § 524(g)(3)(A) requires a district court to either “issue or affirm” the channeling injunction. In June 2008, after a solicitation of votes, over 86% of Quigley’s creditors accepted the Plan.

This is the second time a party has tried to withdraw the reference to allow a district court to concurrently preside over the confirmation hearing of Quigley's Plan. Quigley previously moved for the identical relief before Judge Preska, who referred the original motion to Bankruptcy Court for a hearing on the matter. On the basis of that hearing, at which all parties (including AHC) were present, the Bankruptcy Court determined it would be most efficient to proceed without the District Court, and reserve the parties' right to argue the Bankruptcy Court's rulings to the District Court on appeal. AHC's counsel participated in the hearing and acquiesced on the record to the Bankruptcy Court's recommendation.

Following the resolution at the Bankruptcy Court hearing, Quigley withdrew its motion.

The issues presented in AHC's motion are duplicative of Quigley's original motion to withdraw the reference and do not now warrant a re-airing.

For the reasons set forth in Quigley's opposing papers, AHC's motion is denied.

This constitutes the decision and order of the Court.

Dated: February ²⁶ 2009



U.S.D.J.