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2004 JAN 22 PM 2:12

CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN THE UNITED STATES BANRUPTCY COURT
DISTRICT OF DELAWARE

In re: TWA INC. POST CONFIRMATION
Estates /Debtors

Herbert McMillian)

Unsecured / Creditor's

-against-

Trans World Airlines, Inc. et al,.
Hartford Insurance Group Inc.
John Doe's an Fictitious Names Unknown
In Interest Parties

Estates / Debtors)

CHAPTER 11

"Class Action"
Case Number
01-56 (PJW)
(Jointly Administered)

Response
Hearing Date: 01/29/04

DECLARATION OF HERBERT MCMILLIAN IN OPPOSITION OF ADVERSE DOCKET NO. 5200

TO: Debtors / Estates Counsel and Insurer / Counsels and U.S. Trustee's

This memorandum is submitted in support of Moving Herbert McMillian, as Pro Se for the unsecured / creditor's ,to compel inspection of the requested subpoena's duces tecum documents.

STATEMENT OF FACTS

Upon all the previous proceeding ,revelant exhibits, evidentiary of documents, interrogatories to the employer and employer obligor insurance coverage case; docket number **3613.** previously duly issued subpoena's in this Court, including this Court orally bench pretrial scheduling order's;docket number **5000** and **5047** and including current motion for sanction;docket number **5189.**

RIGHT TO JURY TRIAL PRESERVED
under Rule Fed.R.Civ.P.38(b) and Bankr.P. 9015(a)

The bankruptcy " ERISA" Plan **claims** legal and equity in nature any all issues triable of liability and damages and sought - monetary damages for **"Back pay" of insurance benefits to retired employees and dependents** For purposes , the term of "retiree benefits" in the providing - medical - **disability** for personal injury on the job under Worker's Compensation Laws and Labor Laws under any plan, through the purchase of authorized of insurance or otherwise regarding the Herbert Mc Millian (date of accident August 30th ,1979 at TWA ,JKF Airport NY), (see: Worker's Compensation Board Decision and Order; Case under this title ; Bankruptcy Code Section (11 U.S.C. 1114) & (Labor) 29 USCS ~1131 -1132;

ARGUMENT

Moving creditor's inspection request is authorized under Fed R.Civ.P7034 (b) (3) *Trial Preparation Materials and any other related subsection Rules.* and *Absolute Rights to Discovery of Prior Statements* Fed R.Civil P.7026 (b)

The documents at legal issues,causes are not protected from discovery by the attorney-client priviledge since opposing adverse "TWA. estates / debtors" and the "joinder" "Hartford obligor insurer" and Counsel's are not, and have never been, in an attorney-client relationship.

The equitable relief requested of this Court by moving creditor's is authorized under Fed.R.Civ. 7037 and Fed.R.Civ.7026(g)

Therefore, the moving Creditor's believe the opposing adverse motion of Ramani Ayer to quash subpoena should be **stricken** entirety ,(i) without merit (ii) arbitrary arising from willful or caprice (iii)untimely and improper insufficient services (iv) fail to serve the other opposing debtors/estates in interest parties (v) fail to filed a signed answering affidavit (vi) no other parties answer.

CONCLUSION

For all the reasons stated above, moving creditor's seeks an order should be granted and this Court order each opposing adverse "TWA"and "Hartford" to produce the requested subpoena's duces tecum documents for inspection certain entire ERISA Plan and this court should (hold) or reset **mintrial** with oral testimony.of this case to permit 30 days additional days for discovery.

CERTIFICATION OF PRO SE

I , certify that I conferred in good faith with entity counsel's for the opposing adverse debtors / estates and obligor insurer in an effort to secure inspection **questions raised** of all parts duces tecum documents of the required ERISA Plan without "further" court action, but was unable.

Dated: January 20th ,2004

Respectfully submitted on notice

Herbert McMillian
Pro se for Moving Creditor's
179-17 Anderson Road
St. Albans ,NY 11434
(718) 723-4693

Enclosures: (attached) Papers
*** A copy of any relevant document's on request only.**

DECLARATION
CERTIFICATE OF SERVICE

Herbert McMillian ,declare; for the Creditor's in this "class action" on January 22nd ,2004. he, caused one(1) original true copy of paper(s)
Declaration of Herbert McMillian
in Opposition of Adverse Docket No. 5200

to be filed, **via** . [ ] U.S. Mail [X] Personally [ ] Fax

Clerk's Office 01-56 (PJW)
United States Bankruptcy Court / District of Delaware
824 Market Street.
Wilmington ,Delaware 19899

and

On January 21st , 2004
I , further declare; certify that I cause one(1) true copy of paper(s)
Declaration of Herbert McMillian
in Opposition of Adverse Docket No.5200
to be served on the following ,**via.** [X] U.S. Mail [ ] Personally [ ]

To: Name & Address Debtors/ Estates and Counsel's & its Insurance Carrier.
Attn: Michael Lichly ,Plan Administrator
Pachulski Stang Ziehl Young Jones & Weintraub P.C
919 North Market Street
Wilmington, DE. 19899

Attn: Ramani Ayer,Hartford Insurance CEO
Pepper Hamilton LLP
1201 Market Street,
Wilmington , Delaware, 19899-1709
**John Doe(s) as Joinder in Interest Parties*
Address(es) Unknown

I, swear under penalty of perjury, under the laws of the United States that the foregoing is true and correct in this declaration are true.

Dated **Executed:** on January 22nd , 2004

By: Herbert Mc Millian Declarant
Herbert McMillian
Pro se for Creditor's
179-17 Anderson Road
St. Albans , NY 11434
(718) 723-4693

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DISTRICT OF DELAWARE 2004 JAN 22 PM 2:13

In re: TWA INC. POST CONFIRMATION
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Herbert McMillian)

Unsecured / Creditor's

-against-

Trans World Airlines, Inc.et al,.
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Joinder in Interest Parties

Estates / Debtors)

CHAPTER 11

"Class Action"
Case Number
01-56 (PJW)
(Jointly Administered)

Objection due by: 12/15/03
Hearing Date: 12/ 22/03

CERTIFICATION OF NO OBJECTION
REGARDING DOCKET NO. 5189

The Herbert McMillian , as Pro se for Creditor's undersigned hereby certifies as of the current date of January 21 , 2004 hereof, he has received no answers, objections or other responsive pleadings to the MEMORANDUM IN SUPPORT OF "MOTION" FOR SANCTION - PRETRIAL SCHEDULING ORDER DOCKET NUMBER 5000 and DOCKET NUMBER 5047 filed on 2003 December 5th at: PM 2:57; The undersigned further certifies that he has review the Court's docket in this case and no answers, objections or other responsive pleadings to the "MOTION" appears thereon. Pursuant to the Notice of "MOTION", objections to the "MOTION" were to be filed and served no later than December 15th , 2003 at: 4:00 PM.

It is hereby respectfully requested that the Order be (attached) to the so original "MOTION" as filed be entered at the earliest convenience of the Court.

DATED: January 21 , 2004

BY: Herbert McMillian
179-17 Anderson Road
St. Albans ,NY 11434
Pro Se for Unsecured Creditor's

CONTROL ORDERED this day of , 2004

ENTER; _____

United States Bankruptcy ,