



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at GREENBELT**

In re:	*	Case No. 13-13847-TJC
Vincent L. Abell	*	Chapter 11
Debtor	*	
* * * * *	*	
Roger Schlossberg, Chapter 11 Trustee	*	
Plaintiff	*	
vs.	*	Adversary No. 14-00417
Vincent L. Abell, <i>et al.</i> ,	*	
Defendants	*	
* * * * *	*	

**MEMORANDUM AND ORDER DIRECTING FINAL JUDGMENT AGAINST
VINCENT L. ABELL, MARTA BERTOLA, AND AMERICAN TRUST, LLC**

Before the court is an emergency motion by plaintiff Roger Schlossberg, the Chapter 11 trustee (the “Trustee”), requesting the court to direct that judgments entered against defendants Vincent L. Abell, Marta Bertola, and American Trust, LLC (the “Defendants”) should be certified as final judgments pursuant to Fed. R. Civ. P. 54(b). ECF 335. The court shortened the time to respond to April 25, 2016, on motion by the Trustee. No response has been filed. The court will grant the motion and certify the judgments under Fed. R. Civ. P. 54(b).

On April 14, 2016, this court issued a Memorandum of Decision and accompanying Order granting the Trustee's Emergency Motions for Sanctions for Spoliation of Evidence against the Defendants. ECF 326 and 327. On April 15, 2016, the court entered judgment against each of the Defendants (the "Judgments"). ECF 328. There still remain certain claims against other defendants in this adversary proceeding. The Trustee now asks the court to certify that the Judgments are final against the Defendants.

Rule 54(b) Certification

Fed. R. Civ. P. 54(b), made applicable here by Fed. R. Bankr. P. 7054, provides that a court may enter final judgment on fewer than all claims in a multi-claim or fewer than all parties in a multi-party action if the court expressly determines that there is no just reason for delay. To effectuate a Rule 54(b) certification, the court must first determine whether the judgment is "final in the sense that it is an ultimate disposition of an individual claim entered in the course of a multiple claims action." *MCI Constructors, LLC v. City of Greensboro*, 610 F.3d 849, 855 (4th Cir. 2010) (quoting *Curtis-Wright Corp. v. General Electric Co.*, 446 U.S. 1, 7, 100 S. Ct. 1460, 64 L. Ed. 2d 1 (1980) (internal quotations omitted)). The court must then determine whether there is no just reason for the delay in the entry of judgment. *Braswell Shipyards, Inc. v. Beazer East, Inc.* 2 F.3d 1331, 1335 (4th Cir. 1993). In determining whether there is no just reason for delay in the entry of judgment, courts have considered the following factors:

- (1) the relationship between the adjudicated and unadjudicated claims;
- (2) the possibility that the need for review might or might not be mooted by future developments in the district court;
- (3) the possibility that the reviewing court might be obliged to consider the same issue a second time;
- (4) the presence or absence of a claim or counterclaim which could result in a set-off against the judgment sought to be made final;
- (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense and the like.

Id. at 1335-36 (citing *Allis-Chalmers Corp. v. Philadelphia Electric Co.* 521 F.2d 360, 364 (3d Cir. 1975)). Where the court is persuaded that Rule 54(b) certification is appropriate, the court states those findings of fact on the record or in its order. *Id.* at 1336.

The court hereby makes the Rule 54(b) certification. First, the judgment against the Defendants resolves all claims against the Defendants, other than perhaps claims that are rendered moot as providing duplicative relief to the Judgments. Similarly, there is no possibility that review might be mooted or that a reviewing court might be obliged to consider the same issue a second time because the basis for the entry of the judgment was the Defendants' spoliation of evidence. No counterclaims have been asserted against the Trustee. The Defendants have not objected to the Trustee's motion for entry of final judgment. Finally, the findings made by the court concerning the Defendants' spoliation of evidence, and the largely uncontroverted record concerning the Defendants ongoing abuse of the discovery process in this and other cases that date back more than five years establish the overwhelming need for certification.

Accordingly, it is, by the United States Bankruptcy Court for the District of Maryland hereby

ORDERED that the Trustee's Emergency Motion for Entry of Final Judgment is granted; and it is further

ORDERED that for the reasons stated herein, there is no just reason to delay the Trustee's ability to enforce the Judgments against Mr. Abell, Ms. Bertola, and American Trust; therefore, the court directs that the Judgments are final judgments against Mr. Abell, Ms. Bertola, and American Trust pursuant to Fed. R. Civ. P. 54(b).

Copies to:

Roger Schlossberg, Esq.

134 W. Washington Street
P.O. Box 4227
Hagerstown, MD 21741

David J. Shuster, Esq.
Jean Evelyn Lewis, Esq.
Catherine Mary Manofsky, Esq.
Kramon and Graham
One South Street, Suite 2600
Baltimore, MD 21202-3201

Kevin M. Tabe, Esq.
Taber and Associates, PC
7676 New Hampshire Ave., Suite 307C
Takoma Park, MD 20912

Philip James McNutt, Esq.
Hughes & Bentzen, PLLC
1100 Connecticut Avenue, N.W., Ste. 340
Washington, DC 20036

James Greenan, Esq.
6411 Ivy Lane, Suite 200
Greenbelt, MD 20770

Larry Yumkas, Esq.
James R. Schraf, Esq.
Yumkas, Vidmar & Sweeney, LLC
10211 Wincopin Circle, Suite 500
Columbia, MD 21044

John T. Szymkowicz, Esq.
Szymkowicz & Szymkowicz, LLP
2300 N Street, N.W., Suite 5310
Washington, DC 20037-2211

Maria Maya
20 Ritchie Avenue, Apt. 32
Takoma Park, Maryland 20910

Lawrence A. Katz, Esq.
Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Comer, Virginia 22102

North American Title Company
5301 Wisconsin Avenue NW

Washington, D.C. 20015

219 Atlantic Street, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

Chang Wook Chon
8190 Strawberry Lane
Apt. 303
Falls Church, Virginia 22042

Adebowale Adeleke
7775 Rotherham Drive
Hanover, Maryland 21076

Fusion Contractors
7775 Rotherham Drive
Hanover, Maryland 21076

AG and Son Maintenance Services, LLC
6925 Fourth Street, N.W.
Washington, D.C. 20012

SunTrust Bank
303 Peachtree Street
Atlanta, Georgia 30308

End of Memorandum and Order