

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

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| In re: | § | |
| | § | Chapter 11 |
| | § | |
| IHEARTMEDIA, INC., <i>et al.</i> , ¹ | § | Case No. 18-31274 (MI) |
| | § | |
| Debtors. | § | (Jointly Administered) |
| | § | |

**DEBTORS' EMERGENCY REQUEST FOR A
STATUS CONFERENCE PURSUANT TO 11 U.S.C. § 105(d)(1)**

THIS MOTION SEEKS ENTRY OF 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. 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.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE. A HEARING HAS BEEN REQUESTED ON THIS MATTER ON AUGUST 2, 2018 AT 9:00 A.M. (CT) BEFORE MARVIN ISGUR, 515 RUSK STREET, COURTROOM NO. 404, HOUSTON, TX 77002.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the Debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <http://cases.primeclerk.com/iheartmedia>. The location of Debtor iHeartMedia, Inc.'s principal place of business and the Debtors' service address is: 20880 Stone Oak Parkway, San Antonio, Texas 78258.

1. On July 10, 2018, the Official Committee of Unsecured Creditors (“UCC”) filed its *Amended Motion for Standing to Prosecute Causes of Action on Behalf of the Debtors’ Estates*. (ECF No. 1095, the “Standing Motion”.) Although originally set for hearing on August 2, 2018, the UCC has since continued the hearing on its Standing Motion to August 14, 2018. (ECF No. 1171.) The Debtors file this motion requesting that the Court set a status/pretrial conference pursuant to 11 U.S.C. § 105(d)(1) (in the vein of a Federal Rule 16(a) pretrial conference²) on the UCC’s Motion for August 2, 2018, when matters in this case are already set for hearing.³ Consistent with the goals of Rule 16(a), such a conference would allow the Debtors, the UCC, and the Court to discuss the most effective and efficient path forward for resolving the disputes raised in the Motion. Fed. R. Civ. P. 16(a) (allowing Court to order attorneys to appear for pretrial conference for purposes of, among others, “establishing early and continuing control,” and “discouraging wasteful pretrial activities”); Wright and Miller, 6A Fed. Prac. & Proc. Civ. § 1522 (3d ed.) (“Rule 16 helps to remove extraneous disputes from the case and serves to expedite the determination of the merits, thereby saving time and expense for the litigants and easing the burden on the courts by facilitating the handling of congested dockets.”).

2. In this case, such a conference would serve several purposes. First, this conference is necessary to confirm and crystalize the issues that will actually be in dispute with respect to the Standing Motion. Since the UCC filed its Standing Motion, the Debtors have spent a significant amount of effort analyzing the causes of action identified in the Standing Motion and calculating the effect such causes of action could have on unsecured creditor recoveries if successful. Based

² The Debtors recognize that the Federal Rules of Bankruptcy Procedure do not expressly incorporate Federal Rule of Civil Procedure 16 for contested matters. Fed. R. Bankr. P. 9014(c). But such a hearing falls comfortably within the discretion afforded the Court under 11 U.S.C. 105(d)(1).

³ The Debtors sought the agreement of the UCC to engage in a pretrial conference on August 2nd, but the UCC refused to join in the request.

on this analysis and various discussions with their stakeholders groups, the Debtors have worked with their stakeholder groups to refine the Plan that is on file to account for the causes of action identified in the Standing Motion. While the Debtors remain in ongoing discussions regarding this revised plan, the Debtors believe the next version of the Plan will “credit” the UCC’s Standing Motion arguments in a way that provides that the pool of general unsecured claims will receive value that they would be entitled to assuming the UCC succeeded on every cause of action identified in the Standing Motion.

3. The Debtors’ advisors have had multiple conversations with the UCC’s advisors aimed at walking through each claim in the Standing Motion and showing how it would be mooted by the revised Plan. Counsel and other advisors for the UCC have claimed that they are not satisfied with the treatment of these claims in the Amended Plan, but the UCC has thus far refused to identify how the specific claims raised in the Standing Motion are not adequately addressed. While the Debtors intend to pursue continued engagement with the UCC in the hopes of ferreting out the alleged deficiencies, a status conference aimed at identifying the specific issues remaining in dispute in the Standing Motion would facilitate efficient resolution of the overall dispute. *Brennan v. O’Donnell*, 426 F.2d 218, 221 (5th Cir. 1970) (“In a pretrial conference conducted under Rule 16, the contested issues may be defined and simplified, surprise at trial and the risk of judicial error may be lessened, and some of the burdensome rules of evidence may be avoided through the conclusion of stipulations on matters of evidence.”).

4. Second, a status conference can be used to consider the proper timing for the hearing of the Standing Motion, particularly given the recent developments laid out above. Fully litigating the Standing Motion would require a cost/benefit analysis and the related consideration of whether these claims would be mooted by the Amended Plan. Moreover, if the Debtors succeed

in defeating the Standing Motion, a ruling may be contingent on the specific terms of the revised Plan, and would potentially have to be re-litigated if the revised Plan were to change materially prior to confirmation.⁴ To avoid such duplication of efforts, and because trial of the Standing Motion necessarily implicates issues of the revised Plan, these issues are better tried in parallel with confirmation. The Debtors are not seeking to delay the hearing on the Standing Motion to prejudice the UCC or its arguments in the Standing Motion. Indeed, as demonstrated above, the Debtors have been completely transparent with the UCC in attempting to “show their work” about how the revised Plan already gives unsecured creditors the benefit of all of the causes of action in the Standing Motion.

5. Third, and finally, a status conference will allow the parties and the Court to properly lay out the hearing process for a complex contested matter and chart a path through discovery. The Standing Motion requires analysis of seven separate categories of claims (ECF 1094 at 2–6), and each claim must be analyzed for both its substantive colorability and the Debtors’ justification for not pursuing such an action (*i.e.*, a cost-benefit analysis). In addition, the hearing will require analysis of the revised Plan to determine whether some or all of these claims are mooted by their treatment in the revised Plan. In short, there will be a great deal of ground to cover both through discovery and at trial, and the parties and the Court will only benefit from having a status discussion about the best procedure for an efficient resolution of the contested matter. One issue is whether expert reports will be required from advisors (for both parties) who will be testifying about treatment under the revised plan Plan and the Debtors’ restructuring

⁴ To be clear, the Debtors have no current intention to make material adjustments to the revised Plan that would result in less favorable treatment of general unsecured claims as they related to the issues raised in the Standing Motion. But the Debtors recognize that there is a chance that future events and circumstances could require such a modification.

process. A second is the issue of whether members of the UCC will be deposed.⁵ Finally, the Debtors have not yet received the document production of the UCC, or responses to other written discovery served upon the UCC. Thus, to the extent that disputes arise with respect to that ongoing discovery, these issues could be discussed and resolved. There is no reason why the Standing Motion needs to go forward on August 14th to the extent a more rational and efficient litigation timeline can be developed.

6. As demonstrated above, the Standing Motion presents a number of complex and unique issues. The parties and the Court would benefit from a status conference that would foster discussion and identification of the issues in dispute and would allow the identification of the most efficient path to resolution of these issues. Accordingly, the Debtors respectfully request that the Court set a status conference on the Standing Motion for August 2, 2018.

Basis for Emergency Relief

7. Emergency consideration is necessary because the parties require the Court's guidance as to the sequence and timing of the Standing Motion and confirmation without derailing the substantial progress represented by the Plan and Disclosure Statement.

Dated: July 31, 2018

⁵ The parties continue efforts to resolve this dispute.

/s/ Patricia B. Tomasco

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Rule 9013-1(i) Certification

I hereby certify the accuracy of the facts that support emergency consideration.

/s/ Patricia B. Tomasco

Patricia B. Tomasco

Certificate of Service

I certify that on the 31st day of July 2018, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Patricia B. Tomasco

Patricia B. Tomasco