

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JENNIFER ECKLUND, RECEIVER,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Ancillary Civil Action No. 4:18-cv-359
	§	
ROBERT AND SANDRA BAILEY, et al.,	§	
	§	
Defendants.	§	

RECEIVER’S MOTION TO APPOINT MAGISTRATE JUDGE AS MEDIATOR

Plaintiff Jennifer Ecklund, in her capacity as the Court-appointed Receiver (the “**Receiver**”) for Defendants Thurman P. Bryant, III (“**Bryant**”) and Bryant United Capital Funding, Inc. (“**BUCF**”) (Bryant and BUCF, collectively, the “**Bryant Defendants**”) and Defendant Arthur F. Wammel (“**Wammel**”), Defendant Wammel Group, LLC (the “**Wammel Group**”), and Wammel Group Holdings Partnership (“**WGHP**”) (together Wammel, Wammel Group, and WGHP, the “**Wammel Defendants**”) receivership estates (together, the “**Receivership Estate**” or the “**Receivership**”), in the above-captioned case (the “**Case**”), hereby files her *Motion to Appoint Magistrate Judge as Mediator* (the “**Motion**”), and in support thereof respectfully states as follows:

1. Pursuant to the Court’s Scheduling Order [Dkt. 45], February 15, 2019 is the deadline to notify the Court of the agreed-upon mediator, or request that the Court select a mediator if the parties are unable to agree upon one.

2. The Receiver requests a magistrate judge serve as mediator in this case because the Receiver believes there are multiple benefits to appointing a magistrate judge as mediator. Specifically, the Receiver believes the benefits include, but are not limited to, (a) the benefit of independent and impartial review of the parties’ positions; (b) the benefit of cost-saving aspects;

(c) the benefit of having a judge to consult with the parties regarding evidentiary issues; and (d) the benefit of having a judge comment on the parties' issues regarding dispositive motions.

3. The Receiver and her counsel previously used a magistrate judge as a mediator in this district and found the use of the magistrate judge a great help in order to facilitate amicable settlements. Due to the current circumstances of this Case, appointing a magistrate judge as the mediator is best suited for the parties in order to reach amicable solutions.

4. Between December 2018 and January 2019, the Receiver's counsel communicated with counsel for Defendants Robert and Sandra Bailey, Roland and Holly Maldonado, Hossein Seddighi, and Stephen Garrett as well as *pro se* Defendants Kenneth Hughes, Chelsea Hughes, Teresa Ezell, and Blair Knap regarding the selection of a mediator to conduct mediation in this Case. Counsel to the Receiver and *pro se* Defendants Kenneth Hughes, Chelsea Hughes, Teresa Ezell, and Blair Knapp, and counsel to Defendants Robert and Sandra Bailey specifically request the Court appoint a magistrate judge to conduct mediation in this Case. Counsel to Defendant Stephen Garrett is opposed to the Court appointing a magistrate judge to conduct mediation in this Case.¹ Counsel to Defendants Hossein Seddighi and Roland and Holly Maldonado was unresponsive.²

WHEREFORE, the Receiver respectfully requests that the Court enter an order appointing a magistrate judge to mediate this Case.

DATED: February 7, 2019.

¹ On January 21, 2019, Counsel for Defendant Stephen Garrett opposed the appointment of a magistrate judge as mediator in this Case because counsel believes use of a magistrate judge would compromise the confidential nature of mediation, as the magistrate judge may rule on motions or other issues in this Case. In response, the Receiver's counsel disagreed that the use of a magistrate judge would compromise the confidential nature of the mediation, as counsel for the Receiver could not envision any circumstance in this Case where the magistrate judge would be ruling on motions.

² December 31, 2018 email to Defendants regarding mediation, attached hereto as Exhibit A; January 15, 2019 email to Defendants regarding mediation, attached hereto as Exhibit B

Respectfully submitted,

By: /s/ Timothy E. Hudson

Timothy E. Hudson
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Tim.Hudson@tklaw.com

Mackenzie M. Salenger
State Bar No. 24102451
Mackenzie.Salenger@tklaw.com

Sydne K. Collier
State Bar No. 24089017
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One Arts Plaza
1722 Routh Street, Suite 1500
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Facsimile: (214) 969-1751

COUNSEL TO RECEIVER

CERTIFICATE OF SERVICE

On February 7, 2019, I electronically submitted the foregoing document to the Clerk of the Court for the United States District Court for the Eastern District of Texas using the electronic case filing system of the Court.

/s/ Timothy E. Hudson
Timothy E. Hudson

CERTIFICATE OF CONFERENCE

Sydne K. Collier, counsel for the Receiver, and counsel for Defendants Robert and Sandra Bailey conferred on January 15, 2019, in compliance with the meet and confer requirement in Local Rule CV-7(h). Counsel for Defendants Robert and Sandra Bailey is unopposed to the relief sought in this Motion.

Sydne K. Collier, counsel for the Receiver, attempted to confer with counsel for Defendants Roland Maldonado, Holly Maldonado, and Hossein Seddighi on December 31, 2018 and January 15, 2019, in compliance with the meet and confer requirement in Local Rule CV-7(h). Counsel for Defendants Roland Maldonado, Holly Maldonado, and Hossein Seddighi did not respond regarding whether they are opposed or unopposed to the relief sought in this Motion.

Sydne K. Collier and Timothy E. Hudson, counsel for the Receiver, and counsel for Defendant Stephen Garrett conferred on December 31, 2018; January 15, 2019; January 16, 2019; and January 21, 2019, in compliance with the meet and confer requirement in Local Rule CV-7(h). Counsel for Defendant Stephen Garrett is opposed to the relief sought in this Motion.

/s/ Sydne K. Collier

Sydne K. Collier

EXHIBIT A

From: [Collier, Sydne](#)
To: ["kevin@porterpowers.com"](#); ["dinesh@singhallaw.com"](#); ["khkh@sbcglobal.net"](#); ["Chelseahughes1@yahoo.com"](#); ["abknapp@sbcglobal.net"](#); ["hspector@spectorjohnson.com"](#); ["njohnson@spectorjohnson.com"](#); ["Tkezell000@aol.com"](#)
Cc: [Hudson, Timothy E.](#); [Salenger, Mackenzie](#); [Sanchez, Ed](#)
Subject: Ecklund v. Robert and Sandra Bailey et al. - 4:18-cv-00359 - Mediation
Date: Monday, December 31, 2018 12:46:50 PM

All,

As a reminder, the deadline to notify the court of an agreed-upon mediator is February 15, 2019.

The Receiver recommends we request the Court appoint a magistrate judge to conduct mediation in this case. There are multiple benefits to using a magistrate judge for mediation, including the savings of the standard mediation costs.

Because the mediation deadline is March 29, 2019, the Receiver would like to agree upon a mediator and mediate as soon as practicable in an effort to remain cost-efficient for all parties involved.

Please let me know if you are amenable to requesting the Court appoint a magistrate judge to conduct mediation in this case. We would appreciate you letting us know by **Tuesday, January 15, 2019**. Assuming all can agree, we can take the lead in preparing a filing advising the court as to same.

Thank you.

Sydne K. Collier | Thompson & Knight LLP

Associate

1722 Routh Street, Suite 1500, Dallas, Texas 75201
214.969.2138 (direct) | 214.999.9239 (fax) | sydne.collier@tklaw.com

This message may be confidential and attorney-client privileged. If received in error, please do not read. Instead, reply to me that you have received it in error and delete the message. Thank you.

EXHIBIT B

From: [Collier, Sydne](#)
To: ["kevin@porterpowers.com"](#); ["dinesh@singhallaw.com"](#); ["khkh@sbcglobal.net"](#); ["Chelseahughes1@yahoo.com"](#); ["abknapp@sbcglobal.net"](#); ["hspector@spectorjohnson.com"](#); ["njohnson@spectorjohnson.com"](#); ["Tkezell000@aol.com"](#)
Cc: [Hudson, Timothy E.](#); [Salenger, Mackenzie](#); [Sanchez, Ed](#)
Subject: RE: Ecklund v. Robert and Sandra Bailey et al. - 4:18-cv-00359 - Mediation
Date: Tuesday, January 15, 2019 4:18:01 PM

All,

As a reminder, the deadline to notify the court of an agreed-upon mediator is February 15, 2019.

To date we have received approval for a magistrate judge from the following parties:

1. Kenneth and Chelsea Hughes
2. Teresa Ezell
3. Robert and Sandra Bailey

I have spoken to, or left messages with, the remaining parties as a follow-up. Please let me know as soon as possible if you are amenable to requesting the Court appoint a magistrate judge to conduct mediation in this case.

Thank you.

Sydne K. Collier | Thompson & Knight LLP

Associate

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From: Collier, Sydne
Sent: Monday, December 31, 2018 12:47 PM
To: 'kevin@porterpowers.com' <kevin@porterpowers.com>; 'dinesh@singhallaw.com' <dinesh@singhallaw.com>; 'khkh@sbcglobal.net' <khkh@sbcglobal.net>; 'Chelseahughes1@yahoo.com' <Chelseahughes1@yahoo.com>; 'abknapp@sbcglobal.net' <abknapp@sbcglobal.net>; 'hspector@spectorjohnson.com' <hspector@spectorjohnson.com>; 'njohnson@spectorjohnson.com' <njohnson@spectorjohnson.com>; 'Tkezell000@aol.com' <Tkezell000@aol.com>
Cc: Hudson, Timothy E. <tim.hudson@tklaw.com>; Salenger, Mackenzie <Mackenzie.Salenger@tklaw.com>; Sanchez, Ed <Ed.Sanchez@tklaw.com>
Subject: Ecklund v. Robert and Sandra Bailey et al. - 4:18-cv-00359 - Mediation

All,

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Thank you.

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Defendants.	§	

**ORDER GRANTING THE RECEIVER’S MOTION TO APPOINT
MAGISTRATE JUDGE AS MEDIATOR**

On this date, the Court considered the *Receiver’s Motion to Appoint Magistrate Judge as Mediator* (the “Motion”). The Court, having considered the Motion, finds that the Motion should be granted.

The Court hereby **ORDERS** that this case be submitted to mediation in accordance with this court’s Mediation Plan. U.S. Magistrate Judge _____ is appointed to mediate the case. The parties are instructed to contact the appointed U.S. Magistrate Judge’s chambers to discuss dates available for mediation.

The mediation shall be conducted by the following date: March 29, 2019.

IT IS SO ORDERED.