


SO ORDERED: September 2, 2020.




Robyn L. Moberly
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re:

USA GYMNASTICS,
Debtor.

Chapter 11

Case No. 18-9108-RLM-11

ORDER DIRECTING PARTICIPATION IN SETTLEMENT CONFERENCE

USA Gymnastics ("USAG"), the debtor, and the Additional Tort Claimants' Committee of Sexual Abuse Survivors (the "Survivors' Committee") filed their joint motion requesting that the Court order certain parties to participate in a settlement conference in light of the most recent mediation ordered by this Court that did not result in settlement. The joint motion alleged that the representatives chosen by the insurers to participate in the most recent mediation lacked settlement authority to offer meaningful settlement offers contrary to this Court's June 19th order (the "June 19 Order"). Several of USAG's insurers objected to the joint motion, primarily disputing the allegation that their representatives at the mediation lacked settlement authority.

At the August 26th hearing on this matter, the insurers voiced no objection to this Court directing them to participate in a settlement conference. However, they contended that the settlement conference pertains to settlement of claims, a matter of day to day operations in which chief executive officers typically do not directly participate and thus the Court should not order the participation of the insurers' CEOs at the settlement conference. The insurers also voiced concern that this Court would be participating in a settlement conference with insurers who have insurance coverage disputes pending before this Court.

The Court has considered the joint motion, the insurers' objections and responses, and the oral arguments made in the August 26th hearing and now orders as follows :

(1) the joint motion is GRANTED as modified herein and all objections to the joint motion are overruled;

(2) the undersigned judge will not preside over the settlement conference. The Survivors' Committee, USAG, the United States Olympic and Paralympic Committee ("USOPC") and their respective insurers are ordered to participate in a telephonic settlement conference/mediation to be conducted by the Honorable James M. Carr, Bankruptcy Judge for the Southern District of Indiana. Not only is Judge Carr a well-known litigator and judge, he has successfully mediated cases for other judges since he assumed the bench. Judge Carr is willing to act in a mediator role provided the June 19 Order and rules of mediation under which the parties have heretofore mediated fully apply, including but not limited to confidentiality. He would require that he be allowed to review prior mediation statements provided to the mediators (or updated mediation statements) and that he be permitted to speak with Judge Zive to ascertain how the prior mediations were conducted, where the prior mediation deadlocked and other pertinent information which would otherwise be confidential.

(3) Judge Carr will be considered to be a successor to Judge Zive in his role as mediator. Judge Zive may communicate with Judge Carr regarding the matters disclosed to him in connection with and about his earlier mediation effort notwithstanding the confidential provisions of the June 19 Order. Any matters communicated by and between Judges Carr and Zive will be considered confidential and also subject to the June 19 Order.

(4) all parties to the mediation shall appear and actively participate by their general counsel or higher officer, as well as any other persons employed by their organization who is deemed essential to a successful resolution by that organization.

(5) the parties shall have 14 days to object to Judge Carr serving as a mediator. If no objections are made, a telephonic conference will be scheduled with Judge Carr to organize the mediation process.

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