

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ILLINOIS

In re: )  
 ) Case No. 02-30456  
SOUTHERN ILLINOIS RAILCAR CO., ) (Jointly Administered with 02-30457)  
 et al., ) Chapter 11  
 Debtors. )  
\_\_\_\_\_ )

)  
FRED PARSONS & EUGENIA PARSONS,) Case No. 03-32277  
 )  
 Debtors. ) Chapter 11  
\_\_\_\_\_ )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING DEBTORS'**  
**REQUEST TO STRIKE PROOFS OF CLAIM<sup>1</sup>**

This matter came before the Court for hearing on September 15, 2004, to consider the further sanction of striking the Proofs of Claim (the "Motion") filed by Caldwell-Baker Company ("CBC") in the Chapter 11 bankruptcy cases of Southern Illinois Railcar Company ("SIRC") and Southern Illinois Railcar Company, L.L.C. ("SIRLLC", jointly the "Corporate Debtors") (Claims No. 36, 39 and 77) and filed by CBC and The Baker Group, L.C. ("Baker Group", jointly with CBC the "Baker Entities") in the Chapter 11 bankruptcy case of Fred and Eugenia Parsons (the "Parsons") (Claims No. 20 and 36). Steven M. Hamburg and Bonnie L. Clair appeared as Counsel for the Corporate Debtors, Steven Stanton and Nathan C. Collins appeared as Counsel for the Parsons, and David Unseth appeared as Counsel for G Finance Holding Corporation ("G Finance"). No Counsel appeared for the Baker Entities. This Court,

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<sup>1</sup> The Court conducted a hearing on July 28, 2004, on Debtors' motions for sanctions. At that hearing, the Court advised the parties that a further hearing would be held on September 15, 2004, to consider whether the Baker Entities' proofs of claim should be stricken. The parties were again advised of the September 15<sup>th</sup> hearing in the Court's written order entered August 5, 2004, granting Debtors' motions for sanctions.

having considered these matters, and the record in these proceedings, and being fully apprised in the premises, now enters its Findings of Fact as follows:<sup>2</sup>

1. The Corporate Debtors filed voluntary petitions for relief (the “Corporate Bankruptcies”) under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the “Bankruptcy Code”) on February 7, 2002 (the “Corporate Petition Date”).

2. As of the Corporate Petition Date, CBC was, with its affiliates Baker Group and Carle E. Baker, Jr., Trustee of the MTY Profit-Sharing Plan and Trust (“MTY”, jointly with the Baker Entities, the “Kansas Plaintiffs”), the plaintiff in certain litigation pending in the United States District Court for the District of Kansas (the “Kansas Litigation” in the “Kansas Court”).

3. The Kansas Litigation sought recovery against, inter alia, the Corporate Debtors and Parsons, the President of SIRC and one of the managers of SIRCLLC, for alleged causes of action in contract and tort relating to a railcar lease (the “Lease”) between SIRC and CBC.

4. The Kansas Plaintiffs were represented in the Kansas Litigation by Linus L. Baker (“Baker Counsel”), the brother of Carle E. Baker, Jr., the principal of the Kansas Plaintiffs.

5. The bar date for claims in the Corporate Bankruptcies was June 7, 2002 (the “Bar Date”).

6. CBC filed a proof of claim in each of the Corporate Bankruptcies prior to the Bar Date, alleging in each such claim a pre-petition claim against the respective Corporate Debtor/s in the amount of \$8,367,603.05 (the “Corporate Claims”). Each of these claims was signed by Baker Counsel.

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<sup>2</sup> To the extent that it supplements or adds to the findings and conclusions in this order, the Court adopts, as part of this order, its order entered this same date pertaining to monetary sanctions against the Baker Entities.

7. Neither Baker Group nor MTY filed proofs of claim in the Corporate Bankruptcies.

8. The Debtors objected to CBC's proofs of claim on or about October 31, 2002 and to CBC's amendment of one of the claims thereafter (the "Corporate Claims Litigation"). Again, the amended claim was executed by Baker Counsel.

9. The Corporate Claims Litigation remains pending as of the date of the hearing on this matter.

10. The Baker Entities have filed numerous motions with regard to both the Corporate Bankruptcies generally and the Corporate Claims Litigation specifically. Most of these pleadings have sought to have the Corporate Claims Litigation either heard by the Kansas Court or heard by the United States District Court for the Southern District of Illinois (the "District Court"). All of those pleadings have been executed by Baker Counsel and all appearances on those matters were handled by Baker Counsel.

11. For example, those pleadings include the following:

(A) Each of the Baker Entities filed a motion in the Corporate Bankruptcies to lift the automatic stay to proceed with the Kansas Litigation in the Kansas Court. This Court denied both of those motions.

(B) CBC sought in a response to the Corporate Debtors' Objections to CBC's proofs of claim to have this Court abstain from hearing the SIRC Claims Litigation. This Court denied that request.

(C) In a further attempt to divest this Court of jurisdiction, CBC filed a motion seeking to have the District Court withdraw the reference regarding the Corporate Claims Litigation. Judge David R. Herndon denied that motion on the grounds, inter alia, that it was untimely, see

Caldwell-Baker Co. v. Southern Ill. Railcar Co., No. 03-CV-0013, slip op. at 6-8 (S.D. Ill. Jan. 27, 2003), and that no grounds existed to permit permissive withdrawal of the reference as requested by CBC. See id. at 10-11.

(D) Similarly, CBC filed a motion to stay discovery and other actions regarding the Corporate Claims Litigation, pending decisions on the motion to withdraw the reference, a motion to have that Litigation “recharacterized” as an adversary proceeding as a result of what CBC characterized as a recoupment claim made by the SIRC Entities in their objections to CBC’s claims, and a motion to implead Baker Group and MTY into the Corporate Claims Litigation. This Court also denied all of those motions.

12. Beginning in February 2003, the Corporate Debtors brought a number of discovery related issues before this Court in the Corporate Claims Litigation.

13. The discovery matters initially arose out of certain interrogatories (the “Interrogatories”) and requests for production (the “Production Requests”) propounded by the Corporate Debtors to CBC with regard to the Corporate Claims, concerning issues including, inter alia, the components of and bases for those Claims, the amount and method of calculation of those Claims, and the documentation, if any, supporting those Claims.

14. On March 6, 2003, the Corporate Debtors filed a Motion to Compel in which they sought to compel CBC to respond to the Interrogatories and the Production Requests over CBC’s refusal to make any response to, or to produce any documents in response to, those discovery requests. In that Motion, the Corporate Debtors sought sanctions against CBC for its refusal to respond to the propounded discovery.

15. On March 19, 2003, this Court granted the Corporate Debtors’ Motion to Compel in part by directing CBC to answer the Interrogatories and to produce documents responsive to

the Production Requests by March 24, 2003. This Court also denied the request for sanctions contained in that Motion to Compel.

16. On March 25, 2003, the Corporate Debtors filed their Emergency Motion for Sanctions seeking unspecified sanctions against CBC on the grounds that, instead of providing responsive interrogatory answers and documents to the Interrogatories and the Production Requests, CBC objected to and/or failed to provide responsive answers or documents to any one of the Corporate Debtors' discovery requests.

17. This Court heard that Motion on March 26, 2003 on an emergency basis because, at that time, the trial on the Corporate Claims Litigation was set for March 31, 2003.

18. As a result of the March 26, 2003 hearing, this Court granted the Emergency Motion for Sanctions in part and ordered CBC to appear at the offices of the Corporate Debtors' Counsel on March 31, 2003 and not only produce all of the requested documents, but also provide complete answers to all of the propounded Interrogatories.

19. The Court also reserved ruling on whether any attorney fees or other sanctions would be granted to the Corporate Debtors against CBC regarding their Emergency Motion for Sanctions, but stated in its minute entry regarding that Motion that "[f]ailure to deliver the records may result in the Court striking a portion or all of the claims in question."

20. The Court also continued the trial on the Corporate Claims Litigation generally pending the completion of the discovery matters related to that litigation.

21. On March 31, 2003, Baker Counsel appeared at the offices of Debtors' Counsel with, inter alia, three volumes of answers to the Interrogatories, over one hundred three-ring binders of documents, six boxes of documents and certain other items.

22. On April 14, 2003, the Corporate Debtors filed their Supplemental Motion for Sanctions against CBC, in which the Corporate Debtors asserted numerous deficiencies in the interrogatory answers and document production delivered to their Counsels' office on March 31, 2003, and requested that this Court either strike the Corporate Claims or grant the Corporate Debtors a default judgment against CBC with regard to those Claims and also award the Corporate Debtors the attorneys' fees incurred by them in the Corporate Claims Litigation.

23. On April 17, 2003, this Court entered its Order, sua sponte, directing CBC to file a supplement to the Corporate Claims with this Court in which CBC was to detail completely the alleged bases of those Claims. Thereafter, the Corporate Debtors were to file a detailed response to the supplement filed by CBC.

24. That Order also continued the Corporate Debtors' Supplemental Motion for Sanctions against CBC generally pending further Order. The Order specifically stated

Failure to comply with the terms of this order within the allotted time will result in the Court taking such action as it deems appropriate, including, but not limited to, striking all or a part of CBC's proof of claim and/or of the debtor'(s) defense(s), entering monetary sanctions against any party, and/or disqualifying and removing counsel from further representation of their respective clients in this, and related matters, before the Court.

25. CBC submitted the supplement required by the Court on April 28, 2003.

26. On May 8, 2003, the Corporate Debtors submitted their response to the supplement to CBC's Corporate Claims to the Court, in which they again asserted continuing problems with CBC's responses to the propounded discovery and again requested that this Court strike the Corporate Claims.

27. On May 9, 2003, CBC filed a reply to the Corporate Debtors' response captioned "CBC's Objection to Debtors' Request to Strike CBC's Proof of Claims".

28. The Court then took these matters under submission and conducted a hearing on the discovery matters related to the Corporate Claims Litigation on January 21, 2004.

29. At that hearing, the Court entered an oral order striking the portions of the Claims that asserted a right to recovery either based on tort or in the form of punitive damages. The Court further ruled that it would not hear evidence at trial on CBC's theory that it was entitled to recover rental amounts from SIRC based upon the amount of rent SIRC received from its sublessees; directed CBC to itemize attorney fees, interest, costs and expenses in detail; and required CBC not only to submit all exhibits that CBC intended to submit in support of the Claims at trial to opposing counsel and the Court within sixty days, but also to redact those exhibits to eliminate any information pertaining to any railcars not part of the Lease. The Court also directed the Corporate Debtors to submit their proposed exhibits for trial to the Court within thirty days thereafter and set a trial date for the portion of the Claims related to CBC's claim for rent on the railcars.

30. CBC submitted the exhibits required by the January 21, 2004 Order to Counsel for the Corporate Debtors and to this Court on or about March 9, 2004.

31. The Corporate Debtors submitted the exhibits required by the January 21, 2004 Order to CBC and to this Court on April 23, 2004.

32. On that date, the Corporate Debtors also filed their Motion to Compel Production of Documents with this Court.

33. That Motion sought to compel CBC to produce certain documents relating to mileage earned by the railcars subject to the Lease and to produce documents relating to days on which the railcars subject to the Lease were in shops for repair. The documents were necessary

so that the Corporate Debtors could calculate the amount of credits to which they believed they were entitled under the Lease for assertion as part of their defenses at trial.

34. That Motion sought the requested documents from CBC on the grounds that, inter alia, SIRC could not feasibly obtain the requested information from third parties. This was because CBC was in custody and control of records that would allow SIRC to determine the identity of the third parties from which those documents could be obtained, and because there could be hundreds of railroads or railcar repair shops that SIRC would have to subpoena to obtain the necessary information, while CBC easily could produce the necessary information from its records.

35. On April 27, 2004, CBC objected to that Motion to Compel, asserting that the documents requested by the Corporate Debtors either did not exist or were within SIRC's possession.

36. On May 3, 2004, Judge Gerald Fines, sitting by designation, heard the arguments of SIRC and CBC regarding the Motion to Compel.

37. During the course of that hearing, Baker Counsel repeated the assertion contained in CBC's objection to the Motion to Compel that the requested documents did not exist.

38. As a result of that assertion, Judge Fines ruled that both CBC and Baker Counsel would be required to provide the Court with a certification stating that the documents requested by the Corporate Debtors did not exist. Judge Fines also continued the trial setting on the rent portion of the Claims to a later date.

39. On May 5, 2004, CBC filed its Certification with the Bankruptcy Court (the "Certification").

40. The Certification was not dated and was neither signed under oath nor under penalty of perjury by CBC or Baker Counsel. See generally Certification. Instead, the Certification stated that it was “[m]ade under penalty of law.” See Certification at 3. Moreover, the Certification did not state that it was made upon any party’s personal information, knowledge and belief. See generally Certification.

41. The Certification did not state that the documents requested by the Corporate Debtors with regard to “shop days” did not exist. Rather, the Certification stated that CBC “has no further shop bills to produce . . . that show the duration of time that any leased car or cars was at a repair location.” See Certification at 1.

42. In addition, the Certification did not state that the documents requested by the Corporate Debtors with regard to mileage credits did not exist. Rather, the Certification stated that CBC “has produced its records of unpaid rebates (mileage credits) until the time the cars were given back by SIRC to CBC.” See Certification at 2.

43. Despite the Certification and the oral assertions by Baker Counsel at the May 3, 2004 hearing that no further documents related to the “shop days” or mileage issues existed for production, CBC turned additional documents over to the Corporate Debtors with regard to the mileage issue after the date of the filing of the Certification.

44. On June 1, 2004, the Corporate Debtors filed their Motion for Sanctions and to Strike the Claim of CBC, in which the Corporate Debtors asserted that the Certification failed to comply with either the Court’s direction or CBC’s assertions regarding the non-existence of the documents requested by the Corporate Debtors. In support of that Motion, the Corporate Debtors filed an affidavit from their disclosed expert, a certified public accountant, who averred that he had examined documents previously produced by CBC regarding mileage issues,

reviewed generally available reports regarding railcar movements, and concluded that certain mileage reports not produced to the Corporate Debtors should exist. That Motion again sought that the Corporate Claims be stricken and also sought to have this Court impose the Corporate Debtors' attorneys' and expert fees upon CBC.

45. On June 2, 2004, this Court gave the Corporate Debtors and CBC notice that it would hear the Debtors' Motion for Sanctions and to Strike the Claim of CBC on June 7, 2004.

46. At the June 7, 2004 hearing, this Court announced that it would conduct a further hearing on the Debtors' Motion for Sanctions and to Strike the Claim of CBC on July 16, 2004, and that the parties to the Corporate Claims Litigation could file supplemental pleadings regarding that Motion with the Court prior to that hearing. On that date, this Court also set the rent component of the Corporate Claims Litigation for hearing on October 4, 2004.

47. On July 9, 2004, the Corporate Debtors filed a Supplemental Brief in Support of Motion for Sanctions, in which they asserted further that the Certification failed to comply with the requirements of 28 U.S.C. § 1746 regarding a verified statement. On that date the Corporate Debtors also filed a document captioned "Supplement Regarding Professional Fees Relating to Baker Entities" that detailed the fees incurred by them in defending against the various motions, objections and pleadings brought by the Baker Entities in the Corporate Debtors' Chapter 11 cases.<sup>3</sup>

48. During the five weeks between the June 7, 2004 hearing and the July 16, 2004 hearing, CBC did not file any response or other pleading with regard to the Corporate Debtors' Motion for Sanctions and to Strike the Claim of CBC.

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<sup>3</sup> The Corporate Debtors filed an Amended Supplement Regarding Professional Fees Relating to Baker Entities on July 15, 2004. This Amended Supplement varies from the Supplement filed by the Corporate Debtors on July 9, 2004 in that it corrects certain arithmetic errors within the fee details attached to that document.

49. On July 16, 2004, Judge Fines heard argument from Baker Counsel and for the Corporate Debtors regarding the Motion for Sanctions and to Strike the Claim of CBC and took the matter under submission.

50. On July 23, 2004, Judge Fines entered his opinion and order citing CBC and Baker Counsel for improper conduct in the Corporate Claims Litigation, finding that CBC's and Baker Counsel's discovery abuse and conduct in that Litigation had resulted in undue delay of that proceeding and prejudice to the Debtor, and imposing sanctions against CBC and Baker Counsel, pursuant to Bankruptcy Rule 9011, jointly and severally in the amount of Fifteen Thousand Dollars (\$15,000.00), with such sanctions to be paid to Counsel for the Corporate Debtors. See In re Southern Ill. Railcar Co., No. 02-30456, slip op. at 2, 5 (Bankr. S.D Ill. July 23, 2004).

51. While the Corporate Claims Litigation was pending, this Court also presided over an adversary proceeding brought in the Corporate Bankruptcies by the Baker Entities against the Corporate Debtors and Fred Parsons captioned Caldwell-Baker Company v. Southern Ill. Railcar Co., No. 03-3016 (Bankr. S.D Ill.) (the "Corporate Adversary").

52. Both the Corporate Debtors and Parsons brought motions to dismiss and strike the adversary complaint in the Corporate Adversary.

53. The Corporate Debtors' motion to dismiss the Corporate Adversary also contained a request for the imposition of sanctions upon the Baker Entities.

54. This Court conducted a hearing on those motions to dismiss on April 23, 2003, and heard argument from both Counsel for the Corporate Debtors and Parsons and from Baker Counsel at that time.

55. At that April 23, 2003 hearing, this Court announced that it would be entering an order finding, inter alia, that Baker Counsel had violated Federal Rule of Bankruptcy Procedure 9011 (“Bankruptcy Rule 9011”). This Court also announced at that time that its determination of whether it actually would award sanctions based upon that violation of Bankruptcy Rule 9011 would be determined by Baker Counsel’s further conduct in the Corporate Adversary and the Corporate Bankruptcies.

56. On May 8, 2003, this Court entered an order in accord with its announcements at the April 23, 2003 hearings that not only dismissed the Corporate Adversary, but also found that Baker Counsel had violated Bankruptcy Rule 9011. The Court reserved for later ruling the question of whether this Court would impose any sanctions upon Baker Counsel or his clients for violation of Bankruptcy Rule 9011.

57. The Baker Entities’ appealed the Court’s oral ruling of April 23, 2003 and the Court’s written order of May 8, 2003.

58. During the pendency of the Baker Entities’ appeal from the dismissal of the Corporate Adversary, Parsons and his spouse filed their own Chapter 11 case (the “Parsons Bankruptcy”) on May 30, 2003, which case is numbered 03-32277.

59. Following an appeal to the District Court regarding the propriety of this Court’s dismissal of the Corporate Adversary and a partial remand of that matter to this Court, this Court gave the Baker Entities leave to amend their complaint in that matter.

60. In response to the amended complaint filed by the Baker Entities, the Corporate Debtors filed their Motion to Dismiss and Strike Amended Complaint and Request for Sanctions in the Corporate Adversary. Defendant Fred Parsons also moved to dismiss the amended complaint. The Corporate Debtors’ Motion contained a request for the imposition of sanctions

against the Baker Entities and their Counsel pursuant to 28 U.S.C. § 1927 and 11 U.S.C. § 105(a), alleging that (i) this Court's previous dismissal order in that proceeding found that Baker Counsel had violated Bankruptcy Rule 9011 and that said ruling had not been appealed; (ii) the amended complaint filed by the Baker Entities in that proceeding failed to request any relief to which they might be entitled and lacked support in either fact or law; and (iii) the Baker Entities' amended complaint comprised an act designed to abuse the Corporate Debtors, their creditors and this Court.

61. The Baker Entities did file objections to both the Corporate Debtors' and Parsons' motions to dismiss the Corporate Adversary. However, neither of those objections addressed the sanctions request made by the Corporate Debtors.

62. This Court conducted a hearing regarding the Corporate Debtors' and Parsons' motions to dismiss the Corporate Adversary, and regarding the Corporate Debtors' request for sanctions in that matter, on June 16, 2004.

63. At the conclusion of that hearing, this Court announced that it would dismiss the Corporate Adversary on its merits and set the Corporate Debtors' request for sanctions in that matter for a hearing on July 28, 2004.

64. This Court provided all parties the opportunity to file pleadings with the Court regarding the sanctions issue in the Corporate Adversary prior to that hearing.

65. Parsons chose to file a Motion for Sanctions against the Baker Entities and Baker Counsel in the Corporate Adversary. In that Motion, Parsons joined the Corporate Debtors' Motion for Sanctions and also sought sanctions individually against the Baker Entities pursuant to Bankruptcy Rule 9011 based upon the Baker Entities' filing of multiple pleadings, lawsuits

and appeals, despite this Court's findings that the Baker Entities prior filings with this Court were either baseless or frivolous.

66. The Baker Entities filed a response to the Motion/s on July 26, 2004.

67. This Court heard argument from Counsel for the Corporate Debtors and Parsons and from Baker Counsel on the Motions for Sanctions on July 28, 2004.

68. On August 5, 2004, this Court entered its opinion and order granting the Motions for Sanctions filed by the Corporate Debtors and Parsons in the Corporate Adversary. The opinion and order granting those motions are docketed in the Corporate Adversary as documents number 115 and 116, respectively. See Caldwell-Baker Co. v. Southern Ill. Railcar Co., No. 03-3016 (Bankr. S.D. Ill. Aug. 5, 2004). Those documents also have been docketed in the Corporate Debtors' Chapter 11 case and the Parsons' Chapter 11 case.

69. In that opinion and order, this Court found that the Baker Entities and Baker Counsel had filed numerous pleadings in the Corporate Bankruptcy, the Parsons Bankruptcy, and the Corporate Adversary that had been denied as lacking a basis in fact and/or law; that those pleadings filed by the Baker Entities and Baker Counsel had been characterized by a lack of organization, a refusal to acknowledge facts and a failure to contain or correctly cite precedent; and that those pleadings were frivolous and designed to abuse both the Corporate Debtors and Parsons and the judicial process. See id. at 11-13.

70. In granting those two Motions for Sanctions, this Court awarded the Corporate Debtors \$25,000 jointly and severally against the Baker Entities and Baker Counsel pursuant to Bankruptcy Rule 9011, 28 U.S.C. § 1927, and 11 U.S.C. § 105(a); awarded the Parsons \$25,000 jointly and severally against the Baker Entities and Baker Counsel pursuant to Bankruptcy Rule 9011, 28 U.S.C. § 1927, and 11 U.S.C. § 105(a); and revoked its prior authorization for Baker

Counsel to appear pro hac vice in the Corporate Debtors' Chapter 11 cases and in the Corporate Adversary.<sup>4</sup> See id. at 15-16.

71. Since this Court's grant of the Corporate Debtors' and Parsons' motions to dismiss the Corporate Adversary, CBC has filed its Motion to Compel Expert Report or in Alternative Order Precluding the Use of Expert Testimony (the "Motion to Compel") in the Corporate Claims Litigation. Said Motion was executed by Baker Counsel.

72. In the Motion to Compel, CBC sought to compel the Corporate Debtors to turn over any expert report/s that had been prepared for the Corporate Claims Litigation pursuant to Bankruptcy Rule 7026.

73. The Corporate Debtors timely objected to the Motion to Compel and, after notice, a hearing was held on the Motion to Compel on the same date as the matter presently before this Court.

74. By Order entered September 23, 2004, the Court denied the Motion to Compel on the grounds that said Motion procedurally is improper in that it fails to comply with Bankruptcy Rule 7037, and on the further grounds that no factual or legal basis exists for granting the Motion because the pretrial orders entered in the Corporate Claims Litigation specifically state that Bankruptcy Rule 7026 shall not apply in the Corporate Claims Litigation.

75. In addition, the Baker Entities jointly have filed Motions to Vacate Portions of Orders Confirming Plans Related to Non-Dischargeable or Non-Core Claims (the "Motions to Revoke") in both the Corporate Bankruptcies and the Parsons Bankruptcy. These Motions were executed by Baker Counsel.

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<sup>4</sup> This Court noted, at that time, that Baker Counsel never had applied for or received authorization to appear pro hac vice in the Parsons' Chapter 11 case. However, the Order granting the Motions for Sanctions in the Corporate Adversary also removed Baker Counsel in the Parsons' Chapter 11 case and in any adversary proceedings in that matter.

76. In the Motions to Revoke, the Baker Entities sought to have this Court revoke the orders confirming the Chapter 11 Plans in the Corporate Bankruptcies and the Parsons Bankruptcy.

77. The Corporate Debtors and Parsons timely objected to the Motions to Revoke.

78. G Finance, the largest secured creditor of the Corporate Debtors in their Chapter 11 cases, timely filed its Objection to Motion to Vacate and Statements in Support of Debtors' Objections to Claims of Caldwell-Baker Company (the "G Finance Objection").

79. After notice, a hearing was held on the Motions to Revoke on the same date as the matter presently before this Court.

80. By Order entered September 30, 2004, the Court denied the Motions to Revoke on the grounds that, inter alia, said Motions procedurally are improper in that they were not brought as adversary proceedings pursuant to Bankruptcy Rule 7001, that said Motions are untimely pursuant to Bankruptcy Rule 9024, and that no factual or legal basis exists for the grant of those Motions pursuant to 11 U.S.C. § 1144.

81. At an unrelated hearing on November 3, 2004, the Court advised Carle E. Baker, Jr. that it might be willing to reconsider the imposition of the sanction striking the Baker Entities claims, if he obtained replacement counsel willing to proceed in a professional manner to either settle or litigate the creditors' claims. To date, Carle E. Baker, Jr. has not moved for such reconsideration.<sup>5</sup>

Based upon these findings of fact, this Court's files and docket in the Corporate Debtors' Chapter 11 bankruptcy cases, Parsons' Chapter 11 bankruptcy cases and the adversary proceeding/s pending in those Chapter 11 bankruptcy cases therein, the pleadings filed by

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<sup>5</sup> At the hearing on September 15, 2004, the Court had orally indicated its intention to enter an order striking those claims, the action now memorialized in this order.

counsel in these matters, and, as referenced hereinabove, the arguments of Counsel at the September 15, 2004 hearing, this Court now having considered those documents and pleadings and the arguments of counsel, and being apprised in the premises, now issues its Conclusions of Law as follows:

A. This Court has jurisdiction over this matter under 28 U.S.C. § 1334 and this matter is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (B) and (O).

B. Venue of these proceedings is proper in this district under 28 U.S.C. §§ 1408 and 1409.

C. Due and proper notice of these proceedings was given to all parties in interest.

D. This Court previously has ruled that CBC and Baker Counsel have engaged in discovery abuse in the Corporate Claims Litigation, sanctionable pursuant to Bankruptcy Rule 9011, and that the Baker Entities and Baker Counsel have filed baseless pleadings in the Corporate Adversary, the Corporate Bankruptcies, the Parsons Bankruptcy, and the adversary proceeding brought by the Baker Entities against the Parsons in the Parsons Bankruptcy, sanctionable pursuant to Bankruptcy Rule 9011, 28 U.S.C. § 1927 and 11 U.S.C. § 105(a). To date, this Court has imposed significant monetary sanctions upon the Baker Entities and Baker Counsel, jointly and severally, in order to deter future misconduct by the Baker Entities and Baker Counsel.

E. Despite these sanctions, the Baker Entities and Baker Counsel have continued to engage in misconduct, which misconduct includes the filing and prosecution of the Motions to Revoke.<sup>6</sup>

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<sup>6</sup> The Motions to Revoke are the subject of a Joint Motion for Rule 11 Sanctions against CBC and Baker Counsel brought by the Corporate Debtors and Parsons which was heard and ruled upon separately by this Court.

F. Based upon the record in these proceedings and for the reasons set forth above, IT IS ORDERED that the claims filed by CBC in the Corporate Bankruptcies are STRICKEN.

G. IT IS FURTHER ORDERED that the Court stays its ruling on the Parsons' request to strike the Baker Entities' claims in the Parsons Bankruptcy pending the disposition of certain matters that are on appeal in the District Court and in the Seventh Circuit Court of Appeals.

Counsel for the Corporate Debtors and Parsons, respectively, shall serve a copy of this Order by mail on all interested parties not receiving electronic notice.

SO ORDERED.<sup>7</sup>

ENTERED: November 24, 2004

/s/ Kenneth J. Meyers  
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UNITED STATES BANKRUPTCY JUDGE

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<sup>7</sup> It is unfortunate that this case has disintegrated to its present state. This case is complete with the exception of these claims. All other claims have been settled or litigated. The case is ready to close but for these claims. The claims should have and clearly could have been resolved over a year ago. Rather, due to the tactics that have been utilized by the Baker Entities through their counsel, the case has been unnecessarily delayed to the detriment of all involved. The obstructionist and frivolous proceedings initiated by counsel for the Baker Entities, either intentionally because of bad faith or as a result of incompetency of counsel, have resulted in the expenditure of thousands if not hundreds of thousands of dollars in attorney fees, needlessly. It is only with the greatest of reservations that the Court takes the action that it has today. However, justice has suffered and will continue to suffer if such measures are not taken.