

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

DEC 11 2014

TIM RHODES  
COURT CLERK

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Oklahoma Department of Securities,  
*ex rel.* Irving L. Faught, Administrator ,

Plaintiff,

v.

2001 Trinity Fund, L.L.C. and  
Robert Arrowood,

Defendants.

Case No. CJ-2012-6164

**DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO  
BIFURCATE TRIAL ISSUES AND ESTABLISH CLAIM PROCEDURE**

Defendant Robert Arrowood hereby submits his Response in Opposition to Plaintiff Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator's ("ODS") Motion to Bifurcate Trial Issues and Establish Claims Procedure (the "Motion"). Defendant Arrowood asserts that ODS's Motion is improper and unnecessary under the facts and procedural posture of this case and should be denied. In support of this response, Defendant shows the Court as follows:

Oklahoma law with regard to bifurcation of issues for trial states that:

D. SEPARATE TRIALS. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury.

12 Okla. Stat. § 2018 (D). Bifurcation should be narrowly confined "to the special circumstances found to be present in a litigated case." *Faulkenberry v. Kansas City Southern Railway Co.*, 1983 OK 26, 661 P.2d 510, 513. Defendant Arrowood submits that those special circumstances are not present in the instant case. The issue of Defendant's liability under the

securities laws is inextricably intertwined with the issue of restitution, and thus it would not further expedition or judicial economy to separate the issues. In addition, the determination of any restitution that may be owed will not be extremely complex and time consuming as asserted by ODS. To the contrary, both Defendant Arrowood and Defendant 2001 Trinity Fund, L.L.C. have records of the loans at issue in this case, and repayment amounts can be easily calculated.

Moreover, and more importantly, Defendant 2001 Trinity Fund, L.L.C. is currently the debtor in a Chapter 7 bankruptcy case pending in the United States Bankruptcy Court for the Western District of Oklahoma. Many of the loan holders in this case have filed claims in the bankruptcy proceeding, which claims should be fully satisfied therein. Defendant Arrowood also expects that, at the conclusion of the bankruptcy process, all of the outstanding note holders will be repaid. As a result, allowing a parallel claims procedure in this action would be not only unnecessary, but potentially very disruptive to the orderly procedure in the bankruptcy court. As a result, Plaintiff ODS's request to establish a separate claims process for the loan holders in this case is improper and should be denied.

Accordingly, in light of the foregoing, Defendant Robert Arrowood respectfully requests that Plaintiff Oklahoma Department of Securities' Motion to Bifurcate Trial Issues and Establish Claims Procedure be denied.

Respectfully Submitted,

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William H. Bock, OBA# 13888  
Michelle L. Greene, OBA# 17507  
6402 N. Santa Fe Ave., Suite A  
Oklahoma City, OK 73116  
Telephone: (405) 848-5400  
Facsimile: (405) 848-5479

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 11, 2014, a true and correct copy of the foregoing Defendant Robert Arrowood's Notice of Withdrawal of Third-Party Petition was mailed by first-class mail, postage prepaid, to:

Shaun Mullins  
Gerri Kavanaugh  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102

  
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WILLIAM H. BOCK