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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

AXIS SURPLUS INSURANCE COMPANY,

Plaintiff,

v.

ROBERT D. GERINGER; KIRBY D.
COCHRAN; ROBERT CLAWSON;
DOUGLAS W. CHILD; JEFF AUSTIN;
WILLIAM H. DAVIDSON; WILLIAM K.
WARWICK; WILLIAM GRUNDY; and
KEITH GREEN,

Defendants.

**JOINT STATUS REPORT AND
MOTION TO CONTINUE HEARING
ON MOTION TO INTERVENE**

Civil Case No. 2:14-cv-00244-DAK

The Honorable Dale A. Kimball

Proposed Intervener and movant D. Ray Strong (the “Trustee”), as the post-confirmation estate representative of the Consolidated Legacy Debtors, Castle Arch Opportunity Partners I, LLC, Castle Arch Opportunity Partners II, LLC, and the Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust, the Castle Arch Opportunity Partners I, LLC Liquidating Trust, and the Castle Arch Opportunity Partners II, LLC Liquidating Trust in *In re Castle Arch Real Estate Investment Company, LLC* (the “Bankruptcy Case”),¹ and Defendants Kirby Cochran (“Cochran”), Douglas Child (“Child”), Jeff Austin (“Austin”), Keith Green (“Green”), William Grundy (“Grundy”) and Robert Geringer (“Geringer”), by and through their undersigned counsel, hereby submit this *Joint Status Report and Motion to Continue Hearing on Motion to Intervene*.

1. There currently are four matters pending related to this case and a related case as discussed below:

- a. Motion to Consolidate: On September 19, 2014, the Trustee, Cochran, Child, Austin, Green, and Grundy filed a *Stipulated Motion to Consolidate Cases* (the “Motion to Consolidate”),² seeking to consolidate the above-captioned case with a later-filed Miscellaneous Case filed by Defendants Cochran, Child, Austin, Green and Grundy, styled as *Child v. Strong*, Case No. 2:14-cv-0626-BSJ (the “Miscellaneous Case”). The Motion to Consolidate is

¹ See Bankr. Case No. 11-35082 (Bankr. D. Utah).

² Docket No. 79.

unopposed, and on October 8, 2014, the movants filed a *Request to Submit for Decision*.³

- b. Motion to Withdraw. Certain of the Defendants in this case have filed a *Motion to Withdraw the Reference* (the “Motion to Withdraw the Reference”),⁴ which has resulted in the opening of the Miscellaneous Case by this Court, and that Case has been assigned to the Honorable Bruce S. Jenkins. The Motion to Withdraw the Reference seeks to withdraw this Court’s reference to the Bankruptcy Court of a contested matter that has arisen involving the Trustee’s *Amended Motion for Approval of Settlement Agreement between Trustee and William Warwick Under Federal Rule of Bankruptcy Procedure 9019* (the “Motion to Approve Settlement Agreement”) that had been filed in the Bankruptcy Court.⁵ The Settlement Agreement in question in the Motion to Approve Settlement Agreement is a basis for the Trustee’s *Motion to Intervene* in the above-captioned case. On September 5, 2014, the Trustee filed a *Response* to the Motion to Withdraw the Reference in which, subject to a reservation of rights, he stipulated to withdrawing the reference so that this Court may consider the dispute related to the Motion to Approve Settlement Agreement.⁶

³ Docket No. 80.

⁴ Miscellaneous Case, Docket No. 2.

⁵ Bankruptcy Case, Docket No. 980.

⁶ Miscellaneous Case, Docket No. 6.

- c. Motion to Approve Settlement Agreement. The Motion to Approve Settlement Agreement is also ripe for decision. Two objections to this Motion have been filed: one by Defendants Cochran, Child, Austin, Green, and Grundy;⁷ and one, by Defendant Geringer.⁸ The Trustee has filed a *Response* to these Objections.⁹ The Motion to Approve Settlement Agreement is thus fully briefed. It is anticipated that an evidentiary hearing will be required on the Motion to Approve Settlement Agreement and such hearing will last between two and four hours.
- d. Motion to Intervene. The Trustee has filed a *Motion to Intervene* in this case.¹⁰ Objections to that Motion have been filed, but the matter is fully briefed. One basis for the Motion to Intervene is the Settlement Agreement subject to the Motion to Approve Settlement Agreement. The Court has scheduled a hearing on the Motion to Intervene for October 22, 2014.

2. In light of the above, the parties respectfully request that the Court consider and resolve these matters in the following order:

- a. Motion to Consolidate. Judge Jenkins has calendared a status conference regarding the Withdraw the Reference Case for October 21, 2014. Early resolution of the Motion to Consolidate will allow the matters to proceed

⁷ Bankruptcy Case, Docket No. 992.

⁸ Bankruptcy Case, Docket No. 996; Miscellaneous Case, Docket No. 3.

⁹ Miscellaneous Case, Docket No. 6.

¹⁰ Docket No. 36.

efficiently, and if the Motion is granted, it will allow Judge Jenkins to clear a hearing from his calendar.

- b. Motion to Withdraw the Reference. Resolution of the Motion to Intervene may hinge, in part, on the resolution of the Trustee's Motion to Approve Settlement Agreement, but before turning to that, the Court must first determine whether to grant the Motion to Withdraw the Reference.
- c. Motion to Approve Settlement Agreement and Motion to Intervene. The parties submit that it would be most efficient for the Court to conduct an evidentiary hearing on the Motion to Approve Settlement Agreement, followed by a hearing on the Motion to Intervene.

3. Thus, the parties request that the Court grant the Motion to Consolidate and consider the matters before it in the order set forth above.

4. Based on the above, the parties request that the Court continue the hearing on the Motion to Intervene currently set for October 22, 2014 until after the conclusion of the evidentiary hearing on the Motion to Approve Settlement Agreement. Plaintiff in this case, Axis Surplus Insurance Company, has stated that it does not object to continuing the hearing on the Motion to Intervene.

DATED this 12th day of October, 2014.

DORSEY & WHITNEY LLP

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JONES DAY

/s/ Richard L. Wynne (with permission)
Richard L. Wynne
Attorneys for Robert D. Geringer

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2014, I caused a true and correct copy of the foregoing **JOINT STATUS REPORT AND MOTION TO CONTINUE HEARING ON MOTION TO INTERVENE** to be filed with the United States District Court for the District of Utah by using the CM/ECF system, which will automatically send email notifications of such filing to all counsel who have entered an appearance in this action.

/s/ Sarah Goldberg