

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue, 47th Floor

New York, New York 10166

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

Adam H. Offenhartz

David Feldman

Matthew J. Williams

David J. Kerstein

ATTORNEYS FOR WILMINGTON TRUST COMPANY

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In re

:

Chapter 11 Case No.

**MOTORS LIQUIDATION COMPANY, et al.,
f/k/a General Motors Corp., et al.**

:

09-50026 (REG)

:

:

Debtors.

:

(Jointly Administered)

:

-----X

RADHA RAMANA MURTY NARUMANCHI,

:

:

Plaintiff,

:

Adversary No. 09-00501 (REG)

:

:

vs.

:

:

**GENERAL MOTORS CORPORATION,
et al.,**

:

:

:

Defendants.

:

:

-----X

**DEFENDANT WILMINGTON TRUST COMPANY'S
(i) STATEMENT OF ISSUE PRESENTED ON APPEAL,
(ii) COUNTERDESIGNATION OF ADDITIONAL ITEMS TO BE INCLUDED
IN THE RECORD ON APPEAL IN CONNECTION WITH THE APPEAL
OF RADHA RAMANA MURTY NARUMANCHI; AND
(iii) STATEMENT WITH RESPECT TO CONSOLIDATION**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, Defendant Wilmington Trust Company (“WTC”) submits the following statement of issue presented on appeal and counterdesignation of additional items to be included in the record in connection with the appeal of Plaintiff Radha Ramana Murty Narumanchi (“Narumanchi”) from the Order and Final Judgment Dismissing Adversary Complaint with Prejudice, of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) (Robert E. Gerber, J.), entered on October 23, 2009 (the “Order”) [Adversary Docket No. 32].¹

I.

STATEMENT OF ISSUE ON APPEAL

1. Has appellant Narumanchi established that the Bankruptcy Court: (a) erred as a matter of law in granting WTC’s motion to dismiss the adversary complaint for failure to state a claim upon which relief can be granted because Narumanchi’s claims were barred by the doctrines of res judicata, collateral estoppel, and law of the case, and (b) abused its discretion in denying leave to replead?

¹ WTC reserves the right to amend this Counterdesignation of Additional Items to be Included in the Record on Appeal. For items designated, the designation includes all documents referenced within the particular document number, including, without limitation, all exhibits, attachments, declarations, and affidavits related thereto.

II.

COUNTERDESIGNATION OF RECORD²

Adv. Proc. No. 09-00501 (REG)

Designation Number	Date of Filing	Docket Number	Description
1	07/17/2009	9	Corporate Ownership Statement Pursuant to FRBP 7007.1. filed by David Kerstein on behalf of Wilmington Trust Company. (Kerstein, David) (Entered: 07/17/2009)
2	10/14/2009	30	Notice of Appeal / <i>Provisional Notice of Appeal</i> filed by Radha R.M. Narumanchi. (Entered: 10/14/2009)
3	10/29/2009	34	Amended Notice of Appeal (related document(s) 30) filed by Radha R.M. Narumanchi. Filing Fee Paid. Receipt# 181473 (Rouzeau, Anatin) Modified on 11/20/2009 (Entered: 11/04/2009)

III.

CONSOLIDATION OF APPEALS

It is premature (and improper) for Narumanchi, in his Statement of Issues and Designation of Documents [Adversary Docket No. 35], to request consolidation of the instant appeal of the Order with any other appeal pending before the District Court. The Bankruptcy Court does not have jurisdiction to consolidate appeals pending before the District Court. To the extent Narumanchi believes consolidation is appropriate, he should indicate in his Civil Cover Sheet that the appeal of the Order is related to another civil case now pending in the District

² To the extent Narumanchi purports to designate documents and transcripts that were not part of the record on the motions to dismiss here on appeal (Adv. Proc. No. 09-00501 (REG)) – and instead were part of the record in the lead case (Ch. 11 Case No. 09-50026 (REG)), in connection with his pending appeal from the order of the Bankruptcy Court approving the sale of substantially all of General Motors Corporation’s assets pursuant to section 363 of the Bankruptcy Code, after discovery and a contested evidentiary hearing in which Narumanchi participated – such designation would be inappropriate. WTC reserves the right to move to strike such designations.

Court. *See* S.D.N.Y. Civ. R. 1.6(a); S.D.N.Y. Div. of Bus. R. 15. WTC reserves the right to address whether consolidation of appeals (as opposed to assignment of each of these two distinct appeals to a single judge) is appropriate, after the instant appeal of the Order has been entered on the District Court docket.

Dated: New York, New York
November 25, 2009

/s/ Adam H. Offenhartz

Adam H. Offenhartz (AO-0952)

David Feldman (DF-8070)

Matthew J. Williams (MW-4081)

David J. Kerstein (DK-7017)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue, 47th Floor

New York, New York 10166

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

ATTORNEYS FOR WILMINGTON TRUST COMPANY