

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
RED RIVER TALC, LLC, <sup>1</sup>	)	
Debtor.	)	Case No. 24-90505 (CML)
	)	
	)	

**THE COALITION OF COUNSEL FOR JUSTICE FOR TALC CLAIMANTS’ LIMITED  
OBJECTION AND RESERVATION OF RIGHTS IN CONNECTION WITH THE  
DEBTOR’S MOTION FOR ENTRY OF AN ORDER PERMITTING CLIENTS OF  
SUMMERS & JOHNSON, P.C. TO CHANGE THEIR VOTES**

(Related to Docket No. 731)

The Coalition of Counsel for Justice for Talc Claimants (the “Coalition”), by and through its undersigned counsel, hereby submits this limited objection and reservation of rights in connection with the *Debtor’s Motion for Entry of an Order Permitting Clients of Summers & Johnson, P.C. to Change Their Votes* [Dkt. No. 731] (“Motion”). In support thereof, the Coalition respectfully states as follows:<sup>2</sup>

**OBJECTION**

1. The Debtor asks the Court to approve a change of votes for Summers & Johnson’s clients under Rule 3018(a) of the Federal Rules of Bankruptcy Procedure. Bankruptcy Rule 3018(a) permits a change in vote to occur only on a showing of cause. *In re MCorp Fin.*, 137 B.R. 237, 238 (Bankr. S.D. Tex. 1992) (“A change of vote may not occur as a matter or right. This is to avoid the possibility of an entity changing its vote based upon consideration or promises outside

<sup>1</sup> The last four digits of the debtor’s federal tax identification number are 8508. The Debtor’s address is 501 George Street, New Brunswick, NJ 08933.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed in the Motion.

of the plan. Vote changing is the exception, not the rule.”). Here, the Debtor has not provided the Court with any record on which to assess the basis for the vote change. Unless and until this minimal requirement can be met, the Motion should be denied.

2. According to the Motion, the Summer & Johnson’s clients changed their votes because of the changes from the Initial Plan reflected in the Second Amended Plan and TCC MOU. Mot. ¶ 13. But this description does not come from Mr. Summers or any member of the Summers & Johnson Firm. Nor does the description come from any of the Summers & Johnson’s clients. It instead comes from Debtor’s bankruptcy counsel, in the body of the Motion, as a claim about what Mr. Summers told the Debtor. Apart from this hearsay assertion of counsel and copies of the Original Ballot and Amended Ballot—which speak to the fact of the change, and not the reasons for it—no evidence accompanies the Motion.

3. The Coalition respectfully submits that a lone hearsay assertion, coming from the Debtor’s attorneys and no other source, cannot form an adequate factual basis to assess the basis for the vote change, and in turn authorize the exercise of the Court’s discretion under Rule 3018(a). *Cf., e.g., In re Imerys Talc Am., Inc.*, Case No. 19-10289 (LSS), 2021 WL 4786093, at \*1 (Bankr. D. Del. Oct. 13, 2021) (conducting an evidentiary hearing); *In re MPM Silicones, LLC*, Case No. 14-22503-rdd, 2014 WL 4637175, at \*1 (Bankr. S.D.N.Y. Sept. 17, 2014); *MCorp*, 137 B.R. at 238 (relying on deposition testimony). On this basis, the Motion should be denied.

4. Moreover, the Debtor’s motions to approve the disclosure statement [Dkt. No. 46] and to certify the pre-petition vote [Dkt. No. 305], among other disclosure and plan-related motions, are still pending before this Court, and the parties are currently engaged in related discovery. These motions and their accompanying discovery involve open questions about the validity of the original voting process, including the procedures and standards employed by the

Debtor's predecessor for allowing votes, as well as the enforceability of the master ballots employed (and which the Summers & Johnson firm used). Before these foundational elements have been considered and approved by the Court, building on top of them by considering a vote change seems to put the cart before the horse. If at all, the Motion should be considered subsequent to these other motions, and placed on a discovery and hearing schedule consistent with that ordering.

5. In the event the Debtor or Mr. Summers offer evidence regarding the basis for the vote change, the Coalition reserves its right to seek additional discovery regarding the relief sought in the Motion.

**CONCLUSION**

For the reasons set forth above, the Coalition respectfully requests that the Court deny the Motion or, in the alternative, adjourn the Motion and fix an appropriate briefing and discovery schedule that allows for the Court to first consider the pending disclosure and plan-related motions.

Dated: December 30, 2024

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**CERTIFICATE OF SERVICE**

I certify that on December 30, 2024, I caused a true and correct copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Nicholas R. Lawson  
Nicholas R. Lawson