

MARCO ARAUJO, M.D., CLIFFTON EQUITIES, INC., and
WISCONSIN ECONOMIC DEVELOPMENT CORPORATION,

Plaintiffs,

Case No. 15 CV 769

v.
GREEN BOX NA GREEN BAY, LLC,

Defendant.

FILED
JUN - 1 2015

BRIEF IN OPPOSITION TO REQUEST FOR A RECEIVER

CLERK OF COURTS
BROWN COUNTY, WI

The Defendant in this case does not argue the Court could appoint a receiver.

A Chapter 128 involuntary receivership may be ordered when an execution against a judgment debtor is returned unsatisfied in whole or in part under Wis. Stat. § 128.08(1)(a). However, the appointment of the receiver is discretionary. *Crosby v. Keilman*, 206 Wis. 252 (1931).

We are asking the Court to use its discretion to not appoint a receiver or in the alternative to appoint a selfish receiver to assist the Plaintiff, Dr. Araujo, with the collection of his judgment.

A "selfish receiver" is a receiver authorized by Wisconsin Law to aid a particular creditor in the collection of that creditor's claim, as opposed to the Chapter 128 receiver, who represents the collective interest of all creditors under Wis. Stat. § 128.02(3)(b).

A supplementary receiver could assist in locating possible assets available to satisfy the outstanding judgment. I refer the Court to § 816.04. A selfish receiver usually acts on behalf of a single judgment creditor in aid of execution of a judgment and to marshal assets.

This would appear to make sense as the other Plaintiffs in this case have not obtained judgments and at this time are mere creditors. Also, there has not been a hearing or any proof that the Defendant is insolvent.

It would seem that the purpose of a receiver in regard to Dr. Araujo's judgment would be found in § 813.16(3) and the receiver's duties would be limited to preserving property during the pendency of the appeal of his judgment.

The Court also indicated the issue of a bond could be addressed. Wis. Stat. 128.09 states;
Bond. *In order to qualify, the receiver or assignee shall give to and file with the clerk of the court a bond sufficient to cover conditioned in the usual manner with surety to be approved by the judge having supervision of the proceedings. History: 1993 a. 492.*

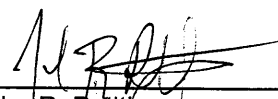
In September 23, 2014, independent analysis prepared by Sanli Pastore & Hill, Inc. that indicated that the IP to be licensed to Green Box NA Green Bay, LLC has a current implied value of \$109,000,000.00. That would seem to be an appropriate amount for the bond. Financing through Raymond James for \$500,000,000.00 was expected to close within the next 80 to 100 days. If the Court sees fit to grant a receivership, my client would request that the Court order the receivership not to take affect until a bond has been secured and filed with the Clerk.

The Defendant is planning on filing a motion to stay collection, pending appeal, with the Court of Appeals. A third party has pledged to provide \$835,000.00 to the Clerk of Courts to induce the Court to grant the stay. Obviously it will take some time before the Court of Appeals will rule on the motion, but it would provide the Plaintiff with security for its judgment pending the outcome of the appeal. The funds in the form of a check payable to the Clerk have been issued by the third party.

For the reasons set forth above, the Defendant asks the Court to provide the Defendant with its rights of due process and hearing. Further, we request the Court to deny the receivership or in the alternative, limit the receiver's powers to preserving the Defendant's assets pending the appeal of Dr. Araujo's judgment.

Dated this 1 day of June, 2015.

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