

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

**Minute Entry**

**Hearing Information:**

**Debtor:** ANMP 74TH ST., LLC  
**Case Number:** 2:03-bk-03799-RJH                      **Chapter:** 11  
**Date / Time / Room:** MONDAY, DECEMBER 18, 2006 02:30 PM 6TH FLOOR #603  
**Bankruptcy Judge:** RANDOLPH J. HAINES  
**Courtroom Clerk:** JANET SMITH  
**Reporter / ECR:** SHERI FLETCHER

**Matters:**

- 1) **ADV: 2-06-00941**  
**JAMES C. SELL vs Robert Guccione**  
NATIONAL BANK OF ARIZONA'S MOTION TO REMAND AND/OR FOR ABSTENTION  
**R / M #: 18 / 0**
  
- 2) **ADV: 2-06-00941**  
**JAMES C. SELL vs Robert Guccione**  
DEBTOR'S MOTION TO CLARIFY AND/OR INTERPRET CONFIRMED PLAN  
**R / M #: 0 / 0**
  
- 3) **ADV: 2-05-00161**  
**AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs Helen Patricia Bailey**  
STATUS HEARING ON COMPLAINT  
**R / M #: 0 / 0**
  
- 4) **ADV: 2-05-00162**  
**AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs MICHAEL R. BARRERAS**  
STATUS HEARING ON COMPLAINT  
**R / M #: 0 / 0**
  
- 5) **ADV: 2-05-00163**  
**AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs FRANK CASPARE**  
STATUS HEARING ON COMPLAINT  
**R / M #: 0 / 0**
  
- 6) **ADV: 2-05-00165**  
**AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs LARRY DUNNING**  
STATUS HEARING ON COMPLAINT  
**R / M #: 0 / 0**
  
- 7) **ADV: 2-05-00166**  
**AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs LUTHER DURANT**  
STATUS HEARING ON COMPLAINT  
**R / M #: 0 / 0**

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- 8) **ADV: 2-05-00167**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs HERB FISHER  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 9) **ADV: 2-05-00168**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs GREGORY A. HARRINGTON  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 10) **ADV: 2-05-00169**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs HELEN C. HARTZE  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 11) **ADV: 2-05-00170**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs MARK KESLER  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 12) **ADV: 2-05-00171**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs RANDY C. KIESEL  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 13) **ADV: 2-05-00172**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs PAUL J. MEKA  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 14) **ADV: 2-05-00173**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs MOSC FBO ROBERT K REHM  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 15) **ADV: 2-05-00174**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs MULTIVEST, LLC  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 16) **ADV: 2-05-00175**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs NP INVESTMENTS  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0

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- 17) **ADV: 2-05-00176**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs ROBERT K REHM  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 18) **ADV: 2-05-00178**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs PHIL VIGARINO  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 19) **ADV: 2-05-00179**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs ERIC STRASSER  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0
- 20) **ADV: 2-05-00180**  
AMERICAN NATIONAL MORTGAGE PARTNERS, LLC vs GARY ZOELLNER  
STATUS HEARING ON COMPLAINT  
R / M #: 0 / 0

**Appearances:**

J. PHILLIP GLASSCOCK, ATTORNEY FOR PAMELA COULTER  
CHRISTOPHER H. BAYLEY/JOEL HOXIE/JENNIFER DIOGUARDI, ATTORNEYS FOR NATIONAL BANK OF  
AZ/ZIONS  
RICHARD L. GREEN, ATTORNEY FOR WESTERN SECURITY BANK  
ROGER L. COHEN, SPECIAL COUNSEL FOR DEBTORS  
MICHAEL W. CARMEL/JONATHAN IBSEN, ATTORNEYS FOR ANMP LLC, AMNP, JAMES C. SELL  
CURTIS D. ENSIGN, ATTORNEY FOR PHIL VIGARINO  
RICHARD RAY THOMAS, ATTORNEY FOR LARRY DUNNING  
MICHAEL SALCIDO, ATTORNEY FOR FRANK CASPARE  
RICK HEROLD, ATTORNEY FOR BERRY  
DAVID DOW, ATTORNEY FOR ANMP UNSECURED CREDITORS COMMITTEE  
GREG GREPPER/RICK MAHSLE, ATTORNEYS FOR FIRST INT'L BANK & TRUST  
ASHLEY ADAMS FELDMAN, ATTORNEY FOR GREGORY HARRINGTON/VECTOR PARTNERS LLC

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**Proceedings:**

MOTION TO REMAND

Mr. Bayley reviewed the motion to remand and urged the Court to grant the motion.

Mr. Thomas opposed the motion to remand.

Mr. Carmel objected to the motion to remand.

COURT: FINDINGS OF FACT AND CONCLUSIONS OF LAW WERE STATED ON THE RECORD. IT IS ORDERED THE REMOVAL WAS TIMELY AND PROPER AND IT IS APPROPRIATE FOR THIS COURT TO CORRECT, IF IT FINDS IT TO BE AN ERROR, A STATE COURT'S INTERPRETATION OF A PLAN OF REORGANIZATION AND OTHER ORDERS THAT ARE TIED UP WITH THE PLAN WHICH INCLUDES BOTH THE APPROVAL OF THE RECEIVERS AUTHORITY TO ASSERT THE CLAIMS AND THE SUBSTANTIVE CONSOLIDATION.

MOTION FOR CLARIFICATION

COURT: FINDINGS OF FACT AND CONCLUSIONS OF LAW RESOLVING THE CLARIFICATION SOUGHT WERE STATED ON THE RECORD. TO THE EXTENT JUDGE SWAN'S RULING IS INCONSISTENT WITH WHAT THIS COURT HAS FOUND AND CONCLUDED TODAY, IT IS VACATED. MR. IBSEN VOLUNTEERED TO FILE A NOTICE OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

Mr. Thomas requested the Court refrain from a final remand order until after hearing oral argument and ruling on the motion to remand on the ACC case.

COURT: THE ACC CASE WILL BE ELIMINATED FROM THE REMAND ORDER AND IT WILL BE HEARD WHEN IT IS SET FOR ORAL ARGUMENT IN JANUARY AND A SEPARATE DETERMINATION WILL BE MADE.

Mr. Carmel reviewed his concerns that depending on what kind of a motion is brought and how the State Court may rule it could have an impact on the plan so he is reserving the right to invoke the Court's confirmation order that the Bankruptcy Court has continuing jurisdiction over the plan. He advised he may be filing a motion to extend the time for removal depending on what happens in the State Court. Mr. Carmel expressed further concern about the 120 day time period. He requested the order be vacated as of October 2, 2006 to eliminate any concern on the running of the 120 day time period which would expire January 31, 2007.

Mr. Cohen requested, if the 120 day period remains in effect, that the time from the filing of the notice of removal until an order of remand is issued be excluded from the computation of the 120 days.

Mr. Herald requested additional time to deal with his issue as well. He requested a tolling that deals with the Berry defendants to the same extent it applies to the plaintiffs.

Mr. Cohen responded stating they are willing to sever that part of the case and send it back to State Court.

COURT: IT IS SO ORDERED, IN THE EVENT IT IS DETERMINED THAT THE RECEIVER MAY NOT PURSUE THE CAUSES OF ACTION, THEN THE TIME FOR INDIVIDUAL INVESTORS TO BRING THEIR OWN ACTIONS IS TOLLED UNTIL MONDAY, APRIL 30, 2007. MR. IBSEN IS DIRECTED TO ADD THIS RULING TO THE PROPOSED ORDER.

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IT IS FURTHER ORDERED DENYING THE SPEAKING MOTION TO TOLL THE BERRY DEFENDANTS TIME TO MOVE TO SET ASIDE THE SUMMARY JUDGMENT ORDER WITHOUT PREJUDICE TO A PROPER WRITTEN MOTION BEING FILED BEFORE THE APPROPRIATE JUDGE.