IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
THE HERTZ CORP., et al.,	)	
	)	Case No. 20-11218 (MFW)
Debtors.	)	Jointly Administered
	)	
	)	
WELLS FARGO BANK, N.A., as INDENTURE TRUSTEE,	)	
	)	
Plaintiffs,	)	
	)	
-and-	)	
	)	
US BANK, as INDENTURE TRUSTEE,	)	
	)	
Intervenor-Plaintiff,	)	
	)	
v.	)	Adv. No. 21-50995 (MFW)
	)	
THE HERTZ CORP., et al.,	)	
	)	Rel. Docs. 28, 41, 42,49,
Defendants.	)	51, 58, 59, 61, 62, 63
	)	

OPINION[1]

Before the Court are several motions filed by the Parties in this adversary proceeding. The first are cross motions by the Debtors and Wells Fargo for summary judgment on the issue of whether the Redemption Price owed on the Senior Notes due in 2026 is unmatured interest, or its economic equivalent, within the meaning of section 502(b)(2) of the Bankruptcy Code. The second is a motion by the Indenture Trustees for reconsideration of the Memorandum Opinion and Order issued on December 22, 2021, which

[1] This Opinion constitutes the findings of fact and conclusions of law of the Court pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

held that the Indenture Trustees are entitled only to the federal judgment rate of interest, rather than their contract rate, for any post-petition interest due on their claims. For the reasons stated below, the Court will grant the Debtors' motion for summary judgment, deny Wells Fargo's motion for summary judgment, and deny the Indenture Trustees' motion for reconsideration.

I. BACKGROUND

The Hertz Corporation and its affiliates (collectively "the Debtors") filed voluntary petitions under chapter 11 of the Bankruptcy Code in May 2020, shortly after the onset of the COVID-19 pandemic disrupted the vehicle rental industry and jeopardized the company's ability to timely pay its lenders.[2] After downsizing its fleet and selling a non-core part of its business, the Debtors obtained an offer from a proposed plan sponsor. After a competitive sales process, the Debtors filed the Second Modified Third Amended Plan of Reorganization (the "Plan") to effectuate a reorganization in accord with the winning bid.[3] The Plan was confirmed in June 2021 and went effective on June 30, 2021.[4]

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[2] D.I. 28 ¶¶ 3-9. References to the docket in this adversary proceeding are to "Adv. D.I. #" while references to the docket in the main case are to "D.I. #."

[3] D.I. 5178.

[4] D.I. 5261 & 5477.

The Plan provided for payment in full of the principal amount of the Senior Notes on the Effective Date of the Plan, together with post-petition interest at the federal judgment rate.[5] The Confirmation Order specifically provided that the Noteholders' rights "to fully seek allowance against the Debtors of all make-whole premium, and or contract issues under the Indentures [were] fully preserved to the extent necessary to render the Noteholders' claims unimpaired."[6]

In July 2021, Wells Fargo Bank, N.A. ("Wells Fargo"), the Indenture Trustee for the Senior Notes due in 2026, filed a complaint seeking a declaratory judgment that, in addition to the principal and pre-petition interest paid to Senior Noteholders on the effective date of the Plan, the Debtors must pay them approximately $272 million consisting of a make-whole premium of $147 million and post-petition interest on their claims at the contract default rate.[7]

In August 2021, the Debtors filed a motion to dismiss the complaint for failure to state a claim. The Court granted that motion in part and denied it in part. The Court concluded that

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[5] D.I. 5178 at Art. III.B.

[6] D.I. 5261 at ¶¶ 26 & 27.

[7] U.S. Bank National Association, the Indenture Trustee for the Senior Notes due 2028, intervened in the adversary by filing a complaint seeking a declaratory judgment that they are owed post-petition interest on their claims at the contract default rate. Adv. D.I. 1 & 14.

the requirement to pay the Redemption Price had been triggered for the Senior Notes due in 2026 and 2028, but that there was a factual issue as to whether the claim was for the economic equivalent of unmatured interest, which is disallowed under section 502(b)(2).[8] The Court further held that any interest, including the Redemption Price to the extent it was determined to be the economic equivalent of interest, was to be paid at the federal judgment rate, not the contract rate.[9]

Following the Court's ruling, the Debtors and Wells Fargo filed cross motions for summary judgment to resolve the narrow remaining issue of the nature of the Redemption Price. Wells Fargo also filed a motion for reconsideration of the Memorandum Opinion and Order to the extent that it held that the Senior Noteholders are entitled only to the federal judgment rate on any post-petition interest they assert under the Indenture Agreements.[10]

The Court held oral argument on the motions on November 9, 2022, after which it announced that it would grant the Debtors' motion for summary judgment, deny Wells Fargo's motion for summary judgment, and deny the Indenture Trustees' motion for reconsideration. The Court also stated that it would certify a

[8] Adv. D.I. 28 at 20-21.

[9] Id. at 46.

[10] U.S. Bank joined in the Motion for Reconsideration. Adv. D.I. 63.

direct appeal of the ruling to the Third Circuit Court of Appeals. This decision is to clarify that ruling.

II. JURISDICTION

The Court has subject matter jurisdiction over this adversary proceeding. 28 U.S.C. §§ 157, 1334; Amended Standing Order of Reference, Feb. 29, 2012. This is a core proceeding dealing with the allowance of claims against the estate. 28 U.S.C. § 157(2)(A) &(O); Stern v. Marshall, 564 U.S. 462, 499 (2011). Additionally, the parties have consented to the entry of a final order by this Court. Wellness Int'l Network, Ltd. v. Sharif, 575 U.S. 665, 686 (2015) (holding that the bankruptcy court may enter a final order without offending Article III so long as the parties consent).

III. DISCUSSION

A. Summary Judgment

1. General Standard

A court should grant summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."[11] The court must make its determination based upon the record made.[12]

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[11] Fed. R. Civ. P. 56(a); Fed R. Bankr. P. 7056.

[12] Fed. R. Civ. P. 56(c).

The movant bears the initial burden of proving that there is no genuine dispute of material fact,[13] and the court must view the record "in the light most favorable to the party opposing the motion."[14] A fact is material when, under the applicable substantive law, it "might affect the outcome of the suit."[15] A dispute over a material fact is genuine when "the evidence is such that a reasonable jury could return a verdict for the nonmoving party."[16] When the movant has met its burden, "its opponent must do more than simply show there is some metaphysical doubt as to the material facts."[17] Where a court ultimately finds that there is no genuine dispute of material fact, it may enter judgment as a matter of law, either for or against the movant, in full or in part, applying the applicable substantive law.[18]

2. Issue Addressed by Summary Judgment Motions

In the Memorandum Opinion, the Court concluded that section 502(b)(2) of the Bankruptcy Code disallowed unmatured interest despite any contractual interest provisions in the Indenture

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[13] Celotex Corp. v. Cartrett, 477 U.S. 317, 323 (1986).

[14] United States v. Diebold, Inc., 369 U.S. 654, 655 (1962).

[15] Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

[16] Id.

[17] Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986).

[18] Fed. R. Civ. P. 56(a), (f).

Agreements. The Court's decision was premised on the explicit language of section 502(b)(2) which provides that a claim is disallowed to the extent "such claim is for unmatured interest."[19] Courts have interpreted that provision to include the "economic equivalent of unmatured interest" because to find otherwise would make the provision susceptible to end-runs by canny creditors.[20] The Court was unable to decide on the record made, however, whether the Redemption Price on the 2026 and 2028 Notes was unmatured interest.

Make-whole or redemption premiums, which are common in debt securities indentures, compensate creditors for damages incurred by the repayment of the notes prior to maturity.[21] Those damages typically are incurred when the noteholders are required to reinvest their funds in a market with lower prevailing interest rates. Determining whether a make-whole premium is the economic equivalent of interest, however, depends on the facts of each case.[22] Courts look to the economic substance of the transaction rather than "dictionary definitions or formalistic labels" when

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[19] 11 U.S.C. § 502(b)(2).

[20] In re Ultra Petro. Corp., 51 F.4th 138, 146 (5th Cir. 2022) ("Ultra III").

[21] See In re Chemtura Corp., 439 B.R. 561, 596 (Bankr. S.D.N.Y. 2010).

[22] In re Ultra Petro. Corp., 943 F.3d 758, 765 (5th Cir. 2019) (quoting Douglas G. Baird, Elements of Bankruptcy 84 (6th ed. 2014)).

making that determination.[23]

3. Characterization of the Redemption Price

The Debtors argue that because labels do not matter and all three components of the Redemption Price formula in this case are interest or its economic equivalent, the output of the formula is similarly interest. Under the formula, the first component is accrued and unpaid interest through the Redemption Date, which the Debtors contend is clearly interest. The second component is the present value of future interest payments from the Redemption Date to the Initial Call Date,[24] which the Debtors also assert is clearly nothing but interest. The third component is the net present value of the Redemption Price that the Debtors agreed to pay the Noteholders on the Initial Call Date, minus the undiscounted principal amount, which is mathematically the equivalent of one semi-annual interest payment. Thus, the Debtors argue that all three components of the Redemption Price are interest, leading to the conclusion that it is as well.

Furthermore, the Debtors argue that the fact the Redemption Price does not account for all the interest that would have been

[23] Ultra III, 51 F.4th at 147-49 (holding that the make-whole was unmatured interest or its economic equivalent when its formula "simply account[ed] for the time-value of money" and that the economic reality of the transaction was determinative).

[24] The Initial Call Date is the first call date in the respective Supplemental Indenture Agreement: August 1, 2022, for the 2026 Senior Notes and January 15, 2023, for the 2028 Senior Notes. See Adv. D.I. 46, Ex. A at ¶¶ 3-6 & Ex. B at ¶¶ 3-6.

paid if the Notes had remained outstanding through their stated maturity date, does not change the fact that the formula consists entirely of interest and should therefore be disallowed under section 502(b)(2).

Wells Fargo argues that the Redemption Price is not unmatured interest as defined in the dictionary because it is not consideration for the use or forbearance of money nor compensation for the delay and risk associated with the ultimate repayment of money.[25] Instead, it asserts that the Redemption Price is to compensate it for the reinvestment costs it will incur as a result of the premature termination of the Notes. It argues that a mere return of principal is not sufficient to compensate the Noteholders for reinvestment costs incurred in a different market environment and that the compensation for reinvestment costs embodied in the Redemption Price is calibrated to provide incremental recovery for those costs and is not a simple acceleration of unmatured interest. Thus, Wells Fargo argues that permitting recovery of reinvestment costs would not conflict with the equitable principles behind the disallowance of unmatured interest.[26]

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[25] See Adv. D.I. 42 at 16 ("interest" means "compensation fixed by agreement or allowed by law for the use or detention of money, or for the loss of money by one who is entitled to its use; especially the amount owed to a lender in return for the use of borrowed money") (citing Black's Law Dictionary (11th ed. 2019)).

[26] 4 Collier on Bankruptcy ¶ 502.03 [3][a] (16th ed. 2022) (unmatured interest is disallowed in part because the delay in

Lastly, Wells Fargo argues that equating reinvestment costs with unmatured interest ignores the fact that the Debtors made two contractual promises: (1) an agreement to pay interest while the Notes were outstanding; and (2) an agreement to compensate the Noteholders for early redemption of the Notes according to the Applicable Premium based on the lending environment at the time of redemption. Wells Fargo asserts that because the obligation to pay reinvestment costs did not accrue until prepayment, which was post-petition, it was not unmatured interest at the time of the bankruptcy filing.

The Court concludes that the economic substance of the transaction governs, not the formalistic labels or dictionary definitions of the terms used.[27] Simply asserting that the Redemption Price is compensation for reinvestment costs that Wells Fargo may incur upon the premature payment of the Notes does not change the economic reality of what the Redemption Price is. Most courts agree that fees or penalties that are the economic equivalent of interest are disallowed regardless of

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liquidation and subsequent distribution necessitated by the bankruptcy process should result in neither gain nor loss for similarly situated creditors and avoids the administrative inconvenience that would result from continuously recalculating unsecured creditors' claims to reflect the ongoing accrual of interest).

[27] Ultra III, 51 F.4th at 147 ("[w]hat matters is the underlying economic reality of the thing — not dictionary definitions or formalistic labels").

their name.[28]

In this case, the Court concludes that each of the three components of the Redemption Price is the equivalent of unmatured interest. Contrary to Wells Fargo's argument, the Redemption Price is not at all tied to the reinvestment costs that Wells Fargo or the Noteholders may incur in reinvesting their money upon early payment of the Notes, such as the costs associated with marketing or finding a replacement borrower. Instead, the formula is tied entirely to the unpaid interest on the Notes at the time of redemption. The first component is the unmatured interest as of the Redemption Date. The second component is the present value of all required remaining interest. The third component is the equivalent of one semi-annual interest payment. Although Wells Fargo asserts that the formula produces a different result from just discounting unpaid interest because it steps down in increments over time as opposed to decreasing steadily as interest accrues, the Court concludes that because the input is entirely interest, the application of the formula

[28] See, e.g., In re Pengo Indus., Inc., 962 F.2d 543, 546 (5th Cir. 1992); In re Chateaugay Corp., 961 F.2d 378, 381 (2d Cir. 1992); In re Public Service Co. of New Hampshire, 114 B.R. 800, 803 (Bankr. D.N.H. 1990) ("[t]he word interest in the statute is clearly sufficient to encompass the OID variation in the method of providing for and collecting what in economic fact is interest to be paid to compensate for the delay and risk involved in the ultimate repayment of monies loaned.").

does not change its nature.[29]

The Court also rejects Wells Fargo's argument that the Redemption Price is not unmatured interest but is instead a contingent right to the payment of a contractual claim that did not accrue until post-petition when the Notes were redeemed. The Bankruptcy Code broadly defines a claim as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent [or] matured ."[30] The right to payment of the Redemption Price is a claim, although contingent, that arose on the petition date. Because all the components of the Redemption Price are unmatured interest or its economic equivalent, the Court concludes that the claim is disallowed under the provisions of section 502(b)(2). The Court will, therefore, grant the Debtors' motion for summary judgment and deny Wells Fargo's motion for summary judgment.

B. Indenture Trustees' Motion for Reconsideration

1. Standard of Review

Reconsideration of interlocutory orders is available where: (1) there has been an intervening change in the controlling

[29] See Ultra III, 51 F.4th at 148 (concluding that the make-whole in that case was unmatured interest because its formula did nothing to its unmatured interest component to render it different from unmatured interest).

[30] 11 U.S.C. § 101(5)(A) (emphasis added).

law,[31] (2) new evidence has become available, or (3) there is a need to prevent manifest injustice or to correct a clear error of fact or law.[32]

2. Analysis

The Indenture Trustees ask the Court to reconsider its Memorandum Opinion dated December 22, 2021, to the extent it held that the Indenture Trustees are entitled to the federal judgment rate, rather than their contract rate, for post-petition interest they are entitled to receive on their claims.[33] The Indenture Trustees argue that reconsideration is warranted based on recent decisions from the Fifth and Ninth Circuits which held that the solvent-debtor exception survived passage of the Bankruptcy Code and entitles unimpaired unsecured creditors to their contract rate of interest if the debtor is solvent.[34] The Indenture Trustees contend those decisions reflect an emerging consensus which is contrary to the Court's prior decision.

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[31] Calyon N.Y. Branch v. Am. Home Mortg. Corp., 383 B.R. 585, 589 (Bankr. D. Del. 2008).

[32] See Fed. R. Civ. P. 54 & 59(e), made applicable by Fed. R. Bankr. P. 9023. See also In re Energy Future Holdings Corp., 904 F.3d 298, 307 (3d Cir. 2018) (holding that bankruptcy courts have the inherent authority to reconsider prior interlocutory orders at any point in the litigation so long as the court retains jurisdiction over the case).

[33] Wells Fargo Bank, N.A. v. The Hertz Corp. (In re The Hertz Corp.), 637 B.R. 781, 793-801 (Bankr. D. Del. 2021).

[34] Ultra III, 51 F.4th at 160; In re PG&E Corp., 46 F.4th 1047, 1064 (9th Cir. 2022).

The Debtors respond that reconsideration is not warranted for several reasons. First, they note that the recent decisions are not binding on this Court. Second, they contend that both decisions addressed the same arguments that the Indenture Trustees raised, but were rejected, by this Court in its decision. Third, they argue that in rendering its decision the Court relied on binding Third Circuit law.

After considering the Fifth and Ninth Circuit decisions and the argument of the parties, the Court concludes that it should deny the Motion for Reconsideration for the following reasons.

First, the Fifth and Ninth Circuit decisions did not rely on any argument that was not considered by the Court in its December 22 decision. In fact, counsel for both sides in this case have expertly and exhaustively articulated the statutory, policy, and common law bases that support the positions on both sides of the issue. This Court considered all those arguments and simply reached a different conclusion from that reached by the Fifth and Ninth Circuits.

Second, both the Fifth and the Ninth Circuit opinions had dissenting opinions. The majority opinions concluded that in the event a debtor is solvent, an equitable principle extant under pre-Code common law (the solvent-debtor exception) required the payment to unimpaired unsecured creditors of post-petition contract interest (and the enforcement of other contract

rights).[35] The dissenting opinions concluded, however, that the solvent-debtor exception did not survive the passage of the Bankruptcy Code and that section 502(b)(2) expressly disallowed any claim for unmatured interest.[36]

Both the majority and the dissenting opinions rely on Supreme Court precedent to determine the proper standard to apply in deciding whether the solvent-debtor exception survived. The majority decisions state that courts should "not read the Bankruptcy Code to erode past bankruptcy practice absent a clear indication that Congress intended such a departure."[37] The

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[35] See Ultra III, 51 F.4th at 160 (holding that although the make-whole premium in that case was disallowed unmatured interest under the Bankruptcy Code, the solvent-debtor exception compelled payment of it and post-petition interest at the contract rate); PG&E, 46 F.4th at 1064 (holding that creditors of a solvent debtor enjoy an equitable right to contractual or state law default post-petition interest before the bankruptcy estate can retain surplus value).

[36] 11 U.S.C. § 502(b)(2). See Ultra III, 51 F.4th at 164 (Oldham, J., dissenting) (concluding that neither the "solvent-debtor exception's historical pedigree nor its policy underpinnings . . . can overcome Congress' clear, and clearer-than-ever command" in § 502(b)(2) that a claim cannot include unmatured interest, and thus stating that unimpaired unsecured creditors should receive post-petition interest only at the federal judgment rate); PG&E, 46 F.4th at 1069 (Ikuta, J., dissenting) ("unsecured creditors holding unimpaired claims are governed by the 'general rule disallowing postpetition interest,' even in a solvent debtor case.").

[37] See PG&E, 46 F.4th at 1058 (quoting Cohen v. de la Cruz, 523 U.S. 213, 221 (1998); Ultra III, 51 F.4th at 154 (same). See also Midlantic Nat'l Bank v. N.J. Dep't of Env't Prot., 474 U.S. 494, 501 (1986) ("The normal rule of statutory construction is that if Congress intends for legislation to change the interpretation of a judicially created concept, it makes that intent specific.").

dissenting opinions cite the Supreme Court to require courts to "begin with the understanding that Congress 'says in a statute what it means and means in a statute what it says there'" and "when the statute's language is plain, the sole function of the courts — at least where the disposition required by the text is not absurd — is to enforce it according to its terms."[38]

In its December 22 decision, this Court found that the prohibition on the allowance of post-petition interest is clearly stated in section 502(b)(2).[39] The Court concluded that the Bankruptcy Code did codify the solvent-debtor exception, but only in three limited circumstances: (1) when a secured creditor is over-secured, i.e., its collateral has a value in excess of its claim,[40] (2) when a chapter 7 debtor is solvent,[41] and (3) when an

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[38] See PG&E, 46 F.4th at 1066 (Ikuta, J., dissenting) (quoting Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A., 530 U.S. 1, 6 (2000)); Ultra III, 51 F.4th at 154 (Oldham, J., dissenting) (citing Cohen v. de la Cruz, 523 U.S. 213, 221 (1998) ("If it's 'unmistakably clear' that a Code provision is incompatible with a prior bankruptcy practice, then the Code overrides that prior practice.")).

[39] Adv. D.I. 28 at 39.

[40] 11 U.S.C. § 506(b) ("To the extent that an allowed secured claim is secured by property the value of which, after any recovery [of the reasonable, necessary costs and expenses of preserving, or disposing of, such property], is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement or State statute"). See also United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs., 484 U.S. 365, 379 (holding that the right to post-petition interest provided under section 506(b) is not applicable to under-secured creditors but that, instead, section 726(a)(5) provides the rule for treatment of unsecured creditors

impaired creditor has not accepted the debtor's chapter 11 plan.[42] The Court found, however, that in Congress' repeal of section 1124(3), it evinced an intent to require that unimpaired creditors receive at least the same treatment as impaired creditors, namely post-petition interest at the federal judgment rate, in the event the debtor is solvent.[43] Congress could have stated at the time it repealed section 1124(3) that the solvent-debtor exception had survived the passage of the Bankruptcy Code or that unimpaired creditors were entitled to their contract rate of interest, but it did not. Instead, Congress simply stated in the legislative history that unimpaired creditors could not be treated less favorably than impaired creditors. This led the Court to conclude that unimpaired creditors were entitled to receive at least post-petition interest at the federal judgment rate because that is what impaired creditors are entitled to receive.

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in the rare solvent debtor case).

[41] 11 U.S.C. § 726(a)(5) (providing for payment of post-petition interest at the legal rate to priority, unsecured, late-filed, and non-compensatory penalty claims before any distribution can be made to the debtor from property of the estate).

[42] 11 U.S.C. § 1129(a)(7) (providing that to confirm a plan, it must provide to the holder of an impaired claim, who has not accepted the plan, an amount "that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7.").

[43] Adv. D.I. 28 at 31-32.

In addition, the Court disagrees with the Indenture Trustees' argument that, because section 1124(1) mandates that they receive all their legal and equitable rights to be unimpaired, section 502(b)(2) cannot disallow their interest claim. The definition of claims under the Bankruptcy Code includes all equitable as well as legal claims.[44] It is that "claim" that section 502(b)(2) mandates must not include unmatured interest. Because it is section 502(b)(2) which disallows interest on that claim, section 1124(1)'s definition of unimpairment cannot be read to add it back.[45]

Consequently, the Court stated that it would deny the Motion for Reconsideration filed by the Indenture Trustees.

C. Certification of Direct Appeal

At oral argument, the Court stated that it felt that this case warranted a direct appeal to the Court of Appeals. To make such a certification, the Court must find that:

> (2) (A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all of the appellants and appellees (if any) acting jointly, certify that —
>
> (i) the judgment, order or decree involves a

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[44] 11 U.S.C. § 101(15).

[45] In re PPI Enters. (U.S.), Inc., 324 F.3d 197, 204 (3d Cir. 2003) (holding that a creditor is unimpaired if it is the effect of the Bankruptcy Code that modifies its rights, not the debtor's plan).

> question of law as to which there is no controlling decisions of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;
> (ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or
> (iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken; and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.[46]

In the present case, the Court finds that the statutory criteria are met. There is no controlling decision from the Third Circuit on the issue before the Court. The issue is one which has resulted in two Circuit decisions, both of which have dissenting opinions. The Ninth Circuit decision has been stayed pending the filing of a petition for writ of certiorari.[47] The latter would be more likely if additional Circuits opine on the issue. Therefore, a prompt consideration of the appeal may serve to advance the resolution of this important issue which impacts successful chapter 11 reorganization proceedings.

Accordingly, the Court deems it appropriate to certify its decision sua sponte for direct appeal to the United States Court of Appeals for the Third Circuit.

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[46] 28 U.S.C. § 158(d)(2).

[47] Order at 57, In re PG&E Corp., No. 21-16043 (9th Cir. Oct. 27, 2022) (granting the Appellee's motion for a stay of the mandate pending the filing of a petition for a writ of certiorari).

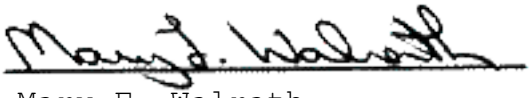
IV. CONCLUSION

For the foregoing reasons, the Court will grant the Debtors' cross motion for summary judgment, deny Wells Fargo's cross motion for summary judgment, and deny the Indenture Trustees' motion for reconsideration.

An appropriate Order follows.

Dated: November 21, 2022

BY THE COURT:



Mary F. Walrath
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
THE HERTZ CORP., et al.,	)	
	)	Case No. 20-11218 (MFW)
Debtors.	)	Jointly Administered
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US BANK, as INDENTURE TRUSTEE,	)	
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v.	)	Adv. No. 21-50995 (MFW)
	)	
THE HERTZ CORP., et al.,	)	
	)	Rel. Docs. 28, 41, 42,49,
Defendants.	)	51, 58, 59, 61, 62, 63
_____	)	

O R D E R

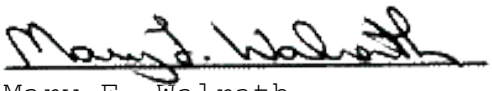
AND NOW this **21st** day of **NOVEMBER 2022**, for the reasons set forth in the accompanying Opinion, it is hereby

ORDERED that the Debtor's cross motion for summary judgment is **GRANTED**; and it is further

ORDERED that Wells Fargo's cross motion for summary judgment is **DENIED**; and it is further

ORDERED, that the Indenture Trustees' motion for reconsideration is **DENIED**.

BY THE COURT:



Mary F. Walrath
United States Bankruptcy Judge