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IT IS SO ORDERED.

Thomas F. Waldron
Thomas F. Waldron
United States Bankruptcy Judge

Dated: October 18, 2005

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

In re: ROBERDS, INC.,

Debtor

Case No. 00-30194

Judge Waldron
Chapter 11

ROBERDS, INC.,

Plaintiff

Adv. No. 01-3351

v.

VAUGHAN BASSETT FURNITURE CO.,

Defendant

ROBERDS, INC.,

Plaintiff

Adv. No. 01-3353

v.

ASHLEY FURNITURE

Defendant

ROBERDS, INC.,

Plaintiff

v.

SOUTHERN TRADITIONS OF NORTH
CAROLINA,

Defendant

Adv. No. 02-3086

ROBERDS, INC.,

Plaintiff

v.

PULASKI FURNITURE CORP.,

Defendant

Adv. No. 02-3173

DECISION ON ORDERS:

DENYING PLAINTIFF ROBERDS, INC.'S MOTION FOR DETERMINATION OF PRELIMINARY LEGAL ISSUES (01-3351 – DOC. 33), DENYING PLAINTIFF ROBERDS, INC.'S MOTION FOR DETERMINATION OF PRELIMINARY LEGAL ISSUES (01-3353 – DOC. 43), GRANTING DEFENDANT ASHLEY FURNITURE'S MOTION FOR PARTIAL SUMMARY JUDGMENT (01-3353 – DOC. 41), DENYING PLAINTIFF ROBERDS, INC.'S MOTION FOR DETERMINATION OF PRELIMINARY LEGAL ISSUES (02-3086 – DOC. 34), AND DENYING PLAINTIFF ROBERDS, INC.'S MOTION FOR DETERMINATION OF PRELIMINARY LEGAL ISSUES (02-3127 – DOC. 28)

DATED AT DAYTON, OHIO this 18th Day of October, 2005:

BACKGROUND

In this, currently insolvent, liquidating Chapter 11 case, hundreds of preference adversaries were filed. At an earlier stage in this case, the Court entered decisions determining certain purely legal issues which aided the resolution of some of the then pending preference adversaries. *In re Roberds, Inc. (Roberds, Inc. v. Broyhill Furniture)*, 313 B.R. 732 (Bankr. S.D. Ohio 2004); *In re Roberds, Inc.*, 315 B.R. 443 (Bankr. S.D. Ohio 2004).

Thereafter, at a pretrial conference, counsel for Roberds observed that, although the Court's prior decisions were no longer the subject of an appeal (See *Roberds v. Broyhill*, 01-3408 – Order of the Bankruptcy Appellate Panel, Doc. 273 – Voluntary dismissal of all appeals by stipulation of the parties), in order to “preserve” these previously determined issues as a part of the pending adversaries, Roberds wished to reassert its previous positions as part of the record in the pending adversaries, which had not been resolved and were in the process of proceeding to trial.

The Court accepted counsel for Roberds' position and entered orders in the adversary proceedings listed in this decision. Although there are slight variations in the pleadings filed in the adversaries addressed in this decision, the filings by counsel for the Debtor are essentially the same in each of these four adversary proceedings. Accordingly, it is appropriate to enter a single decision applicable to all four of these pending adversary proceedings.

PENDING FILINGS

This decision has considered the following filings: In Roberds, Inc., Plaintiff, v. Vaughan Bassett Furniture Co., Defendant, Adversary Proceeding No. 01-3351, *Plaintiff Roberds, Inc.'s Motion For Determination Of Preliminary Legal Issues* (Doc. 33) and *Response To Roberds' Motion For Determination Of Preliminary Legal Issues* (Doc. 37); In Roberds, Inc., Plaintiff, v. Ashley Furniture, Defendant, Adversary Proceeding No. 01-3353, *Plaintiff Roberds, Inc.'s Motion For Determination Of Preliminary Legal Issues* (Doc. 43) and *Defendant Ashley Furniture Industries, Inc.'s Memorandum In Response And Opposition To Plaintiff's "Motion For Determination Of Preliminary Legal Issues"* (Doc. 49) and *Defendant Ashley Furniture Industries, Inc.'s Motion For Partial Summary Judgment As To: (1) Count II Of Plaintiff's Complaint (State Law Claim); (2) The Application Of The New Value Defense Under Section 547(c)(4); And (3) The Inapplicability Of Section 502(d) To Administrative Claims* (Doc. 41) and *Plaintiff Roberds, Inc.'s Objection And Memorandum In Opposition To Defendant Ashley Furniture Industries, Inc.'s Motion For Partial Summary Judgment* (Doc. 48); In Roberds, Inc., Plaintiff, v. Southern Traditions of North Carolina, Defendant, Adversary Proceeding No. 02-3086, *Plaintiff Roberds, Inc.'s Motion For Determination Of Preliminary Legal Issues* (Doc. 34) and *Response To Roberds' Motion For Determination Of Preliminary Legal Issues* (Doc. 38); In Roberds, Inc., Plaintiff, v. Pulaski Furniture Corp., Defendant, Adversary Proceeding No. 02-3173, *Plaintiff Roberds, Inc.'s Motion For Determination Of Preliminary Legal Issues* (Doc. 28) and *Response To Roberds' Motion For Determination Of Preliminary Legal Issues* (Doc. 32).

DECISIONS

As a result of the substantially similar, if not exactly the same, filings by Roberds, Inc. in connection with its *Motion For Determination Of Preliminary Legal Issues* (Doc. 33, Doc. 43, Doc. 34 and Doc. 28 in the listed adversary proceedings) and the substantially similar, if not exactly the same, responses from the various Defendants (Doc. 37, Doc. 49, Doc. 38 and Doc. 32 in the listed adversary proceedings), the court

determines all of these filings and the *Motion For Partial Summary Judgment* of Defendant, Ashley Furniture (Doc. 41 – 01-3353) and related objection (Doc. 48) in this decision.

As an initial matter, the Court notes that all of the arguments presented by Roberds would have been available for initial consideration by the Court in the prior proceeding, which resulted in the Court's decisions in *In re Roberds, Inc.*, 313 B.R. 732 (Bankr. S.D. Ohio 2004) and *In re Roberds, Inc.*, 315 B.R. 443 (Bankr. S.D. Ohio 2004).

The Court, however, has carefully considered all of the arguments advanced by Roberds, both as a repetition of its previous arguments and as an initial presentation in these adversary proceedings and, upon consideration of Roberds' arguments and the various Defendants' responses, and upon further review of the Court's prior published decisions, the Court determines that Roberds has presented no persuasive argument to alter or modify the Court's prior decisions.

Although presented in a slightly different form, the arguments presented in *Defendant Ashley Furniture Industries, Inc.'s Motion For Partial Summary Judgment As To: (1) Count II Of Plaintiff's Complaint (State Law Claim); (2) The Application Of The New Value Defense Under Section 547(c)(4); And (3) The Inapplicability Of Section 502(d) To Administrative Claims* (Doc. 41) and *Plaintiff Roberds, Inc.'s Objection And Memorandum In Opposition To Defendant Ashley Furniture Industries, Inc.'s Motion For Partial Summary Judgment* (Doc. 48), again, upon consideration, fail to cause the Court to reconsider or modify its prior published decisions.

CONCLUSIONS

In accordance with this decision, the Court shall separately enter orders **DENYING** *Plaintiff Roberds, Inc.'s Motion For Determination Of Preliminary Legal Issues* (Doc. 33, Doc. 43, Doc. 34 and Doc. 28 in the listed adversary proceedings) and an order **GRANTING** *Defendant Ashley Furniture Industries, Inc.'s Motion For Partial Summary Judgment As To: (1) Count II Of Plaintiff's Complaint (State Law Claim); (2) The Application Of The New Value Defense Under Section 547(c)(4); And (3) The Inapplicability Of Section 502(d) To Administrative Claims* (Doc. 41 – 01-3353).

c:

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