

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 02-31808

VOLUNTEER TRANSPORT, INC.

Debtor

MEMORANDUM ON OBJECTION TO CLAIM

APPEARANCES: MILLER & ASSOCIATES, PLLC

Mary D. Miller, Esq.
Melody D. Musick, Esq.
3508B Maryville Pike
Knoxville, Tennessee 37920

HAGOOD, TARPY & COX, PLLC

T. Lynn Tarpy, Esq.
Suite 2100, Riverview Tower
900 S. Gay Street
Knoxville, Tennessee 37902
Attorneys for Debtor

PAUL N. RUDOLPH, ESQ.

Suite 316, Washington Square
222 Second Avenue North
Nashville, Tennessee 37201
Attorney for Creditor, William House

RICHARD F. CLIPPARD, ESQ.

UNITED STATES TRUSTEE

Patricia C. Foster, Esq.
800 Market Street
Suite 114
Knoxville, Tennessee 37902
Attorneys for United States Trustee

RICHARD STAIR, JR.

UNITED STATES BANKRUPTCY JUDGE

The contested matter presently before the court was initiated by the Objection to Claim filed by the Debtor on July 7, 2003, objecting to the claim filed by William House (Mr. House) on June 10, 2002, in the amount of \$4,835,000.00. The Debtor argues that the basis of Mr. House's claim, a Default Judgment entered against the Debtor by the Circuit Court for Miller County, Arkansas, on January 3, 2002 (the Default Judgment), is not sufficient to establish the claim in the Debtor's bankruptcy case. As such, the Debtor urges the court to disallow Mr. House's claim. In response, Mr. House argues that the Default Judgment is based upon sufficient findings of fact and conclusions of law and that the bankruptcy court is bound by the doctrine of collateral estoppel from re-litigating the issues. Mr. House accordingly asks the court to allow his claim in its entirety.

The facts and documents essential to the resolution of this issue are before the court on the joint Stipulation of Counsel for Debtor, Volunteer Transport, Inc. and Counsel for William House in Regards to Objection to Claim of William House Filed by Debtor, Volunteer Transport, Inc. filed on September 15, 2003, and the record of the proceedings before the Circuit Court for Miller County, Arkansas. The parties have filed briefs in support of their respective theories.

This is a core proceeding. 28 U.S.C.A. § 157(b)(2)(A), (B), and (O) (West 1993).

I

The Debtor filed the voluntary petition commencing its Chapter 11 bankruptcy case on April 3, 2002, and has continued to operate as a debtor-in-possession pursuant to 11 U.S.C.A. § 1107 (West 1993) and § 1108 (West 1993). On April 8, 2002, a Notice of Commencement of

Case was issued by the clerk and mailed to creditors. This Notice fixed August 6, 2002, as the deadline for creditors to file proofs of claim.

On June 10, 2002, Mr. House filed his proof of claim in the amount of \$4,835,000.00 based upon the Default Judgment obtained against the Debtor in the Circuit Court for Miller County, Arkansas, on January 3, 2002. Mr. House's lawsuit in the Arkansas state court was based upon injuries sustained by Mr. House in an accident occurring in Florida on August 7, 2001, in which Mr. House's tractor-trailer was struck several times by an employee of the Debtor operating one of the Debtor's tractor-trailers. The Debtor was served with Mr. House's complaint, but did not file an answer within thirty days. On January 3, 2002, Mr. House filed and obtained a Default Judgment against the Debtor in the amount of \$4,835,000.00. The total damage award represents damages for "the nature, extent and permanency" of Mr. House's injury in the amount of \$500,000.00, past and future medical expenses of \$135,000.00, past and future pain, suffering, and mental anguish of \$2,000,000.00, and past and future lost earnings in the amount of \$2,200,000.00, plus interest at 6% per annum from January 3, 2002, on the total award.

On July 7, 2003, the Debtor filed its Objection to Claim, averring that the claim should be disallowed because the Default Judgment forming the basis for Mr. House's claim was void for lack of personal jurisdiction over the Debtor and because it was procured by fraud, misrepresentation, and misconduct of Mr. House. Mr. House filed William House's Response to Debtor's Objection to Claim on July 28, 2003, arguing that the issues raised by the Debtor in the Objection to Claim were actually litigated before the Circuit Court for Miller County,

Arkansas, and thus, the doctrine of collateral estoppel barred the bankruptcy court from re-litigating those issues.

At the preliminary hearing on the Objection to Claim held on August 14, 2003, the court raised the issue, sua sponte, of whether the Debtor's Objection to Claim was barred by the *Rooker-Feldman* doctrine. Thereafter, the court entered an Order directing the parties to address this issue before proceeding to any further issues concerning the Objection to Claim. Pursuant to the court's August 14, 2003 Order, the Debtor filed its Memorandum in Support of Objection to Claim on September 30, 2003, and Mr. House filed William House's Memorandum of Law in Opposition to Debtor's Objection to His Claim on October 10, 2003. The issue before the court is whether the Debtor's Objection to Claim is barred by the *Rooker-Feldman* doctrine.

II

The only federal court with the authority to provide appellate review of a decision in a state court proceeding is the United States Supreme Court. *Dist. of Columbia Ct. of Appeals v. Feldman*, 103 S. Ct. 1303, 1317 (1983); *Rooker v. Fid. Trust Co.*, 44 S. Ct. 149, 150 (1923). Taken together, these two Supreme Court cases form the basis of the *Rooker-Feldman* doctrine, which has been further restated as meaning that "a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." *Tropt v. Fid. Nat'l Title Ins. Co.*, 289 F.3d 929, 937 (6th Cir. 2002) (quoting *Johnson v. DeGrandy*, 114 S. Ct. 2647, 2654 (1994)).

One of the two following elements must be present in order for a federal court to abstain from hearing an issue under the *Rooker-Feldman* doctrine: (1) the issue before the federal court is inextricably intertwined with the issue raised in the state court proceeding; and/or (2) “the claim is ‘a specific grievance that the law was invalidly—even unconstitutionally—applied in the plaintiff’s particular case.’” *Tropt*, 289 F.3d at 937 (quoting *Catz v. Chalker*, 142 F.3d 279, 293 (6th Cir. 1998)). “[I]f adjudication of a claim in federal court would require the court to determine that a state court judgment was erroneously entered or was void, the claim is inextricably intertwined with the merits of the state court judgment.” *Kropelnicki v. Siegel*, 290 F.3d 118, 129 (2d Cir. 2002). “[A] lower federal court does not have jurisdiction over a claim if ‘the relief requested would effectively reverse the state court decision or void its ruling.’” *In re Brazelton Cedar Rapids Group LC*, 264 B.R. 195, 198-99 (Bankr. N.D. Iowa 2001) (quoting *Bechtold v. City of Rosemount*, 104 F.3d 1062, 1065 (8th Cir. 1997)).

Furthermore, the *Rooker-Feldman* doctrine does not depend upon the finality of a state court’s decision and includes judgments on appeal, in contrast to the doctrines of collateral estoppel and/or res judicata. *Audre, Inc. v. Casey (In re Audre, Inc.)*, 216 B.R. 19, 28 (B.A.P. 9th Cir. 1997); *In re Johnson*, 210 B.R. 1004, 1006 (Bankr. W.D. Tenn. 1997). The doctrine applies even though the state court judgment may be in error, unless the judgment is based upon an erroneous violation of the automatic stay or violates the discharge injunction of 11 U.S.C.A. § 524(a)(1) (West 1993). *Williams v. Swenson (In re Williams)*, 280 B.R. 857, 863-64 (B.A.P. 9th Cir. 2002). The *Rooker-Feldman* doctrine is also applicable in the bankruptcy context,

including proceedings to determine the allowance or disallowance of claims. *See, e.g., Abboud v. Abboud (In re Abboud)*, 237 B.R. 777 (B.A.P. 10th Cir. 1999).

In this case, the Debtor is asking the bankruptcy court to disallow Mr. House's claim because it is void for lack of personal jurisdiction, it is void under Arkansas law because it was based on fraud, and because it is not a final judgment. These arguments are precisely the types of issues that the *Rooker-Feldman* doctrine addresses. The question of whether the Default Judgment is void for lack of personal jurisdiction cannot be determined by the bankruptcy court. This issue was directly raised by the Debtor in its Supplemental Motion to Set Aside Default Judgment filed in the Arkansas state court on November 6, 2002, and was argued by the Debtor in the hearing on this motion held on December 17, 2002. In his opinion given by letter dated April 3, 2003, the Circuit Court Judge for Miller County, Arkansas, directly addressed the Debtor's jurisdiction argument, deciding that Mr. House had presented sufficient evidence that the state court had personal jurisdiction over the Debtor. Likewise, the same reasoning prohibits the bankruptcy court from making a determination as to whether the Default Judgment was based upon fraudulent misrepresentations by Mr. House. These issues were argued and expressly overruled in the state court, and "the bankruptcy court may not reexamine [issues] pressed by the Debtor because [those issues were] considered and rejected by the State Court when it rendered the Judgment." *Abboud*, 237 B.R. at 783.

Moreover, the Debtor has appealed the decision to the Arkansas Court of Appeals, the only court that actually has appellate jurisdiction over the Default Judgment. As previously stated, the fact that the Default Judgment has been appealed and is not final does not change the applicability

of the *Rooker-Feldman* doctrine.¹ The bankruptcy court is without the jurisdiction to make an adjudication as to the validity of the Default Judgment entered against the Debtor in the Circuit Court for Miller County, Arkansas. As such, the Debtor's Objection to Claim shall be overruled.

An order consistent with this Memorandum will be entered.

FILED: October 29, 2003

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE

¹ Even if the Debtor's objection was not barred by the *Rooker-Feldman* doctrine, under Arkansas law, courts must give res judicata effect to judgments, even if they are pending on appeal. See, *John Cheeseman Trucking, Inc. v. Pinson*, 855 S.W.2d 941, 943 (Ark. 1993).

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 02-31808

VOLUNTEER TRANSPORT, INC.

Debtor

ORDER

For the reasons stated in the Memorandum on Objection to Claim filed this date, the court directs that the Objection to Claim filed by the Debtor on July 7, 2003, objecting to the claim filed by William House on June 10, 2002, in the amount of \$4,835,000.00, is OVERRULED.

SO ORDERED.

ENTER: October 29, 2003

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE