

LeClairRyan Trustee Approved For \$21M UnitedLex Settlement

By **Vince Sullivan**

Law360 (June 28, 2022, 8:45 PM EDT) -- A Virginia bankruptcy judge approved a \$21 million settlement between the Chapter 7 trustee for defunct law firm LeClairRyan PLLC and the legal services provider she accused of bleeding the firm of millions and driving it into liquidation.

In an opinion from U.S. Bankruptcy Judge Kevin R. Huennekens, the court said the settlement with UnitedLex is fair and reasonable and resolves complex and potentially costly litigation among the parties that has already been pending for more than a year.

"The settlement agreement is a proper exercise of the trustee's business judgment, meets the standards established by the Fourth Circuit for the approval of a compromise and settlement in bankruptcy, and is reasonable, fair, and equitable, and supported by adequate consideration," the Tuesday opinion said.

Chapter 7 trustee Lynn Tavenner commenced the adversary complaint against UnitedLex in October 2020, accusing the company of conspiring with LeClairRyan leadership to use a joint venture between the two entities to siphon millions from the law firm while prolonging its eventual demise, according to court filings.

The complaint alleges up to \$128 million in damages.

The settlement arose after two mediation sessions before another Virginia bankruptcy judge and includes a \$3.15 million "improvident payment" to Tavenner's special litigation counsel at Quinn Emanuel Urquhart & Sullivan that will come out of the settlement amount. Both parties will also provide mutual releases, and UnitedLex will waive any pursuit of payments for claims asserted against the bankruptcy estate of LeClairRyan, according to court records.

The Office of the United States Trustee objected to the settlement after it was presented to the court in April, saying the settlement payment was permissible, but the improvident payment to Quinn Emanuel was not permitted under Rule 9019, which governs settlements, and instead would have to be presented under Section 327 of the bankruptcy code.

Judge Huennekens said he was not obligated to treat the improvident payment as a severable part of the settlement and would not do so, explaining that it was an integral part of the resolution of the claims. Even if he were to assess its appropriateness under Section 327, he would still approve the payment, because bankruptcy judges retain wide latitude in amending attorney payment agreements.

While Quinn Emanuel had agreed to serve as special litigation counsel in exchange for a 35% contingency fee, the court was free to increase or decrease that if circumstances warranted.

In this case, the unforeseen work involved in bringing the case to settlement warranted the improvident payment, but Judge Huennekens also said he would not permit the 35% contingency fee to be collected on the \$3.15 million improvident payment. Instead, Quinn Emanuel can collect the fee only on the \$21 million after the improvident payment is subtracted.

Reached for comment late Tuesday, trustee litigation counsel Erika L. Morabito of Quinn Emanuel called the ruling an "incredible result" achieved after 20 months of hard-fought litigation.

"Quinn Emanuel is proud of the role it played in helping to achieve this result on behalf of the trustee and the estate. This was truly a team effort by the Chapter 7 trustee and all of her professionals," Morabito told Law360. "We are also extraordinarily grateful for the incredible efforts and substantial time put in by the judicial mediator, the court, its staff and the various parties."

Representatives for UnitedLex could not immediately be reached for comment Tuesday.

LeClairRyan filed for Chapter 11 in 2019 and its case was quickly converted to a Chapter 7 liquidation, with Tavenner appointed as the trustee overseeing it. The UnitedLex settlement brings the total settlements reached so far in the case to about \$40 million, according to court filings.

Tavenner is represented by Paula S. Beran of Tavenner & Beran PLC and by Erika L. Morabito and Brittany J. Nelson of Quinn Emanuel Urquhart & Sullivan LLP.

UnitedLex is represented by David G. Barger, Thomas J. McKee Jr. and J. Gregory Milmo of Greenberg Traurig LLP.

The bankruptcy case is In re: LeClairRyan PLLC, case number 3:19-bk-34574, and the adversary proceeding is Lynn L. Tavenner v. ULX Partners LLC et al., case number 3:20-ap-3142, both in the U.S. Bankruptcy Court for the Eastern District of Virginia.

—Additional reporting by Rick Archer. Editing by Linda Voorhis.