

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 07-2714 & 07-3137

SENTRY SELECT INSURANCE COMPANY;
SENTRY INSURANCE, A MUTUAL COMPANY

v.

LBL SKYSYSTEMS (U.S.A.), INC.
c/o ERNST & YOUNG, INC.,
as Interim Receiver;
TRAVELERS GUARANTEE COMPANY OF CANADA,
f/k/a St. Paul Guarantee Insurance Company;
SOLERA CONSTRUCTION, INC.;
DCM ERECTORS, INC.;
ERNST & YOUNG, INC.;
RAYMOND CHABOT INC.;
LINDA ANGELLO, as COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF LABOR; ANDREW W. ERISTOFF, as COMMISSIONER OF THE
NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE;
LAURENTIAN BANK OF CANADA

Solera Construction, Inc.;
DCM Erectors, Inc.,
Appellants.

On Consolidated Appeals from the Orders dated May 18, 2007 and June 26, 2007 in the
United States District Court for the Eastern District of Pennsylvania
(Civ. No. 06-cv-04779)
District Judge: Honorable Jan E. DuBois

Argued: May 15, 2008

Before: McKEE, GARTH, *Circuit Judges*, and IRENAS, * *Senior District Judge*.

(Filed: June 5, 2008)

Ray L. LeFlore, Esq.
250 East 40th Street
New York, NY 10016-0000

Counsel for Appellants

H. Hugh McConnell, Esq.
Stuart H. Sobel, Esq.
Siegfried, Rivera, Lerner, De La Torre & Sobel
201 Alhambra Circle
Suite 1102
Coral Gables, FL 33134-0000

Counsel for Appellee Travelers Guarantee Company of Canada

OPINION

IRENAS, *Senior United States District Judge*.

This case involves a dispute between Appellants, Solera Construction, Inc. and DCM Erectors, Inc. (“Solera/DCM”), and Appellee, Travelers Guarantee Company of Canada, formerly known as St. Paul Guarantee Insurance Company (“St. Paul”),¹ as to

* Honorable Joseph E. Irenas, Senior United States District Judge for the District of New Jersey, sitting by designation.

¹ St. Paul was formerly known as London Guarantee Insurance Company. References are made to all three entities—Travelers, St. Paul, and London—throughout the documents contained in the record, as well as the parties’ briefs. Since the names of the entities can be read interchangeably, and for ease of reference, we will refer to them collectively as St. Paul.

whether Solera/DCM or St. Paul is entitled to the proceeds from a judgment entered in favor of LBL Skysystems (U.S.A.), Inc. (“LBL”).² Solera/DCM appeals from two Orders and Memorandum Opinions signed by the Honorable Jan E. DuBois of the Eastern District of Pennsylvania on May 18, 2007, and June 26, 2007, respectively.³ In the interpleader action below, the District Court granted St. Paul’s motion for summary judgment and denied Solera/DCM’s cross-motion for summary judgment, concluding that “St. Paul’s security interest in the proceeds of the [LBL Judgment] is superior to any other interest in the funds held in escrow,” and ordered that the proceeds be paid to St. Paul.⁴ On June 26, the District Court denied Solera/DCM’s motion for a stay pending appeal.⁵

² We will refer to the judgment at issue as the “LBL Judgment,” the amount of which is \$1,566,381. See *LBL Skysystems (USA), Inc. v. APG-America, Inc.*, No. Civ. A. 02-5379, 2005 WL 2140240 (E.D. Pa. Aug. 31, 2005) (decision as to liability); *LBL Skysystems (USA), Inc. v. APG-America, Inc.*, No. Civ. A. 02-5379, 2006 WL 2590497 (E.D. Pa. Sept. 6, 2006) (decision as to damages).

³ The Orders and Opinions were entered on May 23, 2007 and June 27, 2007.

⁴ The District Court’s May 18 Order also denied St. Paul’s motion for entry of judgment by default, and denied Solera/DCM’s cross-motion seeking entry of an order (1) dismissing certain defendants and striking their pleadings; (2) dismissing the cross-claims of St. Paul and LBL; and (3) transferring the interpleader action to the United States District Court for the Eastern District of New York. However, the issues presented to this Court on appeal only concern the District Court’s grant of summary judgment in favor of St. Paul and its denial of Solera/DCM’s cross-motion for summary judgment.

⁵ Solera/DCM, in support of its motion, argued that disbursement of the proceeds to St. Paul would leave Solera/DCM with “no fund[s] to look to” if it was ultimately successful on appeal, and that its “appeal may become moot under the useless judgment doctrine as the *res* will no longer be in existence.” As a precautionary measure, the District Court ordered the withholding of \$1000 of the LBL Judgment pending the

In his two Memorandum Opinions and Orders, Judge DuBois thoroughly and adequately explained why St. Paul was entitled to summary judgment. We find his reasoning compelling and without error, and we will not repeat or add to it simply to reach the same results. Accordingly, we will affirm the District Court's decisions and will remand the case so that it can order the disbursement of the remaining funds held in escrow to St. Paul.

outcome of this appeal.