

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 15, 2022

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

In re: JOHN Q. HAMMONS FALL 2006, LLC; ACLOST, LLC; BRICKTOWN RESIDENCE CATERING CO., INC.; CHATEAU CATERING CO., INC.; CHATEAU LAKE, LLC; CITY CENTRE HOTEL CORP.; CIVIC CENTER REDEVELOPMENT CORP.; CONCORD GOLF CATERING CO., INC.; CONCORD HOTEL CATERING CO., INC.; EAST PEORIA CATERING CO., INC.; FORT SMITH CATERING CO., INC.; FRANKLIN/CRESCENT CATERING CO., INC.; GLENDALE COYOTES CATERING CO., INC.; GLENDALE COYOTES HOTEL CATERING CO., INC.; HAMMONS OF ARKANSAS, LLC; HAMMONS OF COLORADO, LLC; HAMMONS OF FRANKLIN, LLC; HAMMONS OF FRISCO, LLC; HAMMONS OF HUNTSVILLE, LLC; HAMMONS OF LINCOLN, LLC; HAMMONS OF NEW MEXICO, LLC; HAMMONS OF OKLAHOMA CITY, LLC; HAMMONS OF RICHARDSON, LLC; HAMMONS OF ROGERS, INC.; HAMMONS OF SIOUX FALLS, LLC; HAMMONS OF SOUTH CAROLINA, LLC; HAMMONS OF TULSA, LLC; HAMMONS, INC.; HAMPTON CATERING CO., INC.; HOT SPRINGS CATERING CO., INC.; HUNTSVILLE CATERING, LLC; INTERNATIONAL CATERING CO., INC.; JQH - ALLEN DEVELOPMENT, LLC; JQH - CONCORD DEVELOPMENT, LLC; JQH - EAST PEORIA DEVELOPMENT, LLC; JQH - FT. SMITH DEVELOPMENT, LLC; JQH

No. 20-3203
(16-21142)
(United States Bankruptcy Court for the
District of Kansas)

- GLENDALE AZ DEVELOPMENT, LLC; JQH - KANSAS CITY DEVELOPMENT, LLC; JQH - LA VISTA CY DEVELOPMENT, LLC; JQH - LA VISTA CONFERENCE CENTER DEVELOPMENT, LLC; JQH - LA VISTA III DEVELOPMENT, LLC; JQH - LAKE OF THE OZARKS DEVELOPMENT, LLC; JQH - MURFREESBORO DEVELOPMENT, LLC; JQH - NORMAL DEVELOPMENT, LLC; JQH - NORMAN DEVELOPMENT, LLC; JQH - OKLAHOMA CITY BRICKTOWN DEVELOPMENT, LLC; JQH - OLATHE DEVELOPMENT, LLC; JQH - PLEASANT GROVE DEVELOPMENT, LLC; JQH - ROGERS CONVENTION CENTER DEVELOPMENT, LLC; JQH - SAN MARCOS DEVELOPMENT, LLC; JOHN Q. HAMMONS 2015 LOAN HOLDINGS, LLC; JOHN Q. HAMMONS CENTER, LLC; JOHN Q. HAMMONS HOTELS DEVELOPMENT, LLC; JOHN Q. HAMMONS HOTELS MANAGEMENT I CORPORATION; JOHN Q. HAMMONS HOTELS MANAGEMENT II, LP; JOHN Q. HAMMONS HOTELS MANAGEMENT, LLC; JOPLIN RESIDENCE CATERING CO., INC.; JUNCTION CITY CATERING CO., INC.; KC RESIDENCE CATERING CO., INC.; LA VISTA CY CATERING CO., INC.; LA VISTA ES CATERING CO., INC.; LINCOLN P STREET CATERING CO., INC.; LOVELAND CATERING CO., INC.; MANZANO CATERING CO., INC.; MURFREESBORO CATERING CO., INC.; NORMAL CATERING CO., INC.; OKC COURTYARD CATERING CO., INC.; R-2 OPERATING CO., INC.; REVOCABLE TRUST OF JOHN Q. HAMMONS DATED DECEMBER 28,

1989 AS AMENDED AND RESTATED;
RICHARDSON HAMMONS, LP;
ROGERS ES CATERING CO., INC.; SGF
- COURTYARD CATERING CO., INC.;
SIOUX FALLS CONVENTION/ARENA
CATERING CO., INC.; ST. CHARLES
CATERING CO., INC.; TULSA/169
CATERING CO., INC.; U.P. CATERING
CO., INC.,

Debtors.

JOHN Q. HAMMONS FALL 2006, LLC;
ACLOST, LLC; BRICKTOWN
RESIDENCE CATERING CO., INC.;
CHATEAU CATERING CO., INC.;
CHATEAU LAKE, LLC; CITY CENTRE
HOTEL CORP.; CIVIC CENTER
REDEVELOPMENT CORP.; CONCORD
GOLF CATERING CO., INC.;
CONCORD HOTEL CATERING CO.,
INC.; EAST PEORIA CATERING CO.,
INC.; FORT SMITH CATERING CO.,
INC.; FRANKLIN/CRESCENT
CATERING CO., INC.; GLENDALE
COYOTES CATERING CO., INC.;
GLENDALE COYOTES HOTEL
CATERING CO., INC.; HAMMONS OF
ARKANSAS, LLC; HAMMONS OF
COLORADO, LLC; HAMMONS OF
FRANKLIN, LLC; HAMMONS OF
FRISCO, LLC; HAMMONS OF
HUNTSVILLE, LLC; HAMMONS OF
LINCOLN, LLC; HAMMONS OF NEW
MEXICO, LLC; HAMMONS OF
OKLAHOMA CITY, LLC; HAMMONS
OF RICHARDSON, LLC; HAMMONS
OF ROGERS, INC.; HAMMONS OF
SIOUX FALLS, LLC; HAMMONS OF
SOUTH CAROLINA, LLC; HAMMONS
OF TULSA, LLC; HAMMONS, INC.;

HAMPTON CATERING CO., INC.; HOT SPRINGS CATERING CO., INC.; HUNTSVILLE CATERING, LLC; INTERNATIONAL CATERING CO., INC.; JQH - ALLEN DEVELOPMENT, LLC; JQH - CONCORD DEVELOPMENT, LLC; JQH - EAST PEORIA DEVELOPMENT, LLC; JQH - FT. SMITH DEVELOPMENT, LLC; JQH - GLENDALE AZ DEVELOPMENT, LLC; JQH - KANSAS CITY DEVELOPMENT, LLC; JQH - LA VISTA CY DEVELOPMENT, LLC; JQH - LA VISTA CONFERENCE CENTER DEVELOPMENT, LLC; JQH - LA VISTA III DEVELOPMENT, LLC; JQH - LAKE OF THE OZARKS DEVELOPMENT, LLC; JQH - MURFREESBORO DEVELOPMENT, LLC; JQH - NORMAL DEVELOPMENT, LLC; JQH - NORMAN DEVELOPMENT, LLC; JQH - OKLAHOMA CITY BRICKTOWN DEVELOPMENT, LLC; JQH - OLATHE DEVELOPMENT, LLC; JQH - PLEASANT GROVE DEVELOPMENT, LLC; JQH - ROGERS CONVENTION CENTER DEVELOPMENT, LLC; JQH - SAN MARCOS DEVELOPMENT, LLC; JOHN Q. HAMMONS 2015 LOAN HOLDINGS, LLC; JOHN Q. HAMMONS CENTER, LLC; JOHN Q. HAMMONS HOTELS DEVELOPMENT, LLC; JOHN Q. HAMMONS HOTELS MANAGEMENT I CORPORATION; JOHN Q. HAMMONS HOTELS MANAGEMENT II, LP; JOHN Q. HAMMONS HOTELS MANAGEMENT, LLC; JOPLIN RESIDENCE CATERING CO., INC.; JUNCTION CITY CATERING CO., INC.; KC RESIDENCE CATERING CO., INC.; LA VISTA CY CATERING CO., INC.; LA VISTA ES CATERING CO., INC.; LINCOLN P STREET

CATERING CO., INC.; LOVELAND
CATERING CO., INC.; MANZANO
CATERING CO., INC.;
MURFREESBORO CATERING CO.,
INC.; NORMAL CATERING CO., INC.;
OKC COURTYARD CATERING CO.,
INC.; R-2 OPERATING CO., INC.;
REVOCABLE TRUST OF JOHN Q.
HAMMONS DATED DECEMBER 28,
1989 AS AMENDED AND RESTATED;
RICHARDSON HAMMONS, LP;
ROGERS ES CATERING CO., INC.; SGF
- COURTYARD CATERING CO., INC.;
SIOUX FALLS CONVENTION/ARENA
CATERING CO., INC.; ST. CHARLES
CATERING CO., INC.; TULSA/169
CATERING CO., INC.; U.P. CATERING
CO., INC.,

Appellants,

v.

OFFICE OF THE UNITED STATES
TRUSTEE,

Appellee,

ACADIANA MANAGEMENT GROUP,
LLC; ALBUQUERQUE-AMG
SPECIALTY HOSPITAL, LLC;
CENTRAL INDIANA-AMG SPECIALTY
HOSPITAL, LLC; LTAC HOSPITAL OF
EDMOND, LLC; HOUMA-AMG
SPECIALTY HOSPITAL, LLC; LTAC OF
LOUISIANA, LLC; LAS VEGAS-AMG
SPECIALTY HOSPITAL, LLC;
WARREN BOEGEL; BOEGEL FARMS,
LLC and THREE BO'S, INC.

Amici Curiae.

ORDER AND JUDGMENT*

Before **BACHARACH, EBEL, and PHILLIPS**, Circuit Judges.

This matter is before the court following our receipt of the United States Supreme Court’s order granting certiorari, vacating our judgment, and remanding for further consideration in light of *Siegel v. Fitzgerald*, 142 S. Ct. 1770 (2022). See *Office of the United States Trustee v. John Q. Hammons Fall 2006, LLC*, 142 S. Ct. 2810 (2022). The Supreme Court’s judgment issued on July 15, 2022. That same day, we recalled our mandate and ordered the parties to file supplemental briefs regarding the impact of *Siegel* on this appeal.

Upon careful consideration of the parties’ supplemental briefs and the Supreme Court’s *Siegel* opinion, we reinstate our original opinion, *In re: John Q. Hammons Fall 2006, LLC*, 15 F.4th 1011 (10th Cir. 2021). We reverse and remand for determination of Appellants’ quarterly Chapter 11 fees and a refund of overpayment consistent with our original opinion.

Entered for the Court,

Gregory A. Phillips
Circuit Judge

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.