

Cause No. 01-23-00618-CV

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|------------------------------|---|-------------------------|
| GREAT VALUE STORAGE, LLC and | § | IN THE COURT OF APPEALS |
| WORLD CLASS CAPITAL | § | |
| GROUP, LLC, | § | |
| | § | |
| <i>Appellants,</i> | § | |
| <i>v.</i> | § | FIRST DISTRICT OF TEXAS |
| | § | |
| PRINCETON CAPITAL | § | |
| CORPORATION, | § | |
| | § | |
| <i>Appellee,</i> | § | HOUSTON, TEXAS |

**RECEIVER’S SUR-REPLY TO APPELLANTS’ REPLY IN SUPPORT OF
MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEFS**

TO THE HONORABLE FIRST COURT OF APPEALS:

The real reason Appellants ask further briefing delay is because they are attempting to game this Court by stalling here—while playing one collateral attack against the others in the district court, in three appellate courts, and in the Supreme Court—hoping to delay the jurisdictional consequences here, which would reveal the paucity of their other appeals, which suffer the same fatal mootness.

Three months ago, Appellants told this Court, “Appellants conferred with counsel for Plaintiff [Princeton Capital Corp.] and the Receiver. Plaintiff is not opposed to appellants’ request for the Court to consider the jurisdictional arguments with the merits

briefing”¹ Of course Princeton is not opposed. It settled over a year ago with Appellants, was paid the entire amount owed, reported the settlement and payment to the Securities and Exchange Commission, and distributed the money to its shareholders. This is why Princeton has told this Court—twice—that the outcome of this appeal “will not have any effect on Princeton or its final settlement.”²

Yet three months later, Appellants—having still neither briefed the merits of their claims nor jurisdiction—ask *further* delay, to February, and will surely ask additional extensions beyond that. The reason Appellants seek delay in this settled appeal is because they are front-running collateral attacks on the receivership order in the Third,³ Eighth,⁴ and Fourteenth⁵ Courts of Appeals, and the Supreme Court,⁶ hoping one of these appeals will work, thereby leverage to avoid jurisdictional dismissal of *all* the appeals.

For example, last week Appellants filed a request to delay dismissal of their remaining harassment suit against Receiver Kretzer pending in the Harris County 165th Judicial District. They asked the district court to await their collateral attacks against the

¹ Letter of Appellants to Clerk of the Court, No. 01-23-00618-CV (Sept. 19, 2023) at 3.

² Princeton’s Response to Court’s June 1, 2023 Order, No. 01-21-00284-CV at 2 (June 16, 2023) (“The motion for rehearing . . . will not have any effect on Princeton or its final settlement.”); *accord* Princeton’s Response to Court’s March 30, 2023 Order, No. 01-21-00284-CV (Apr. 10, 2023).

³ *World Class Capital Group, LLC and WC 4th and Colorado, LP v. Colorado Third Street, LLC*, No. 03-22-00781-CV (Tex. App.—Austin).

⁴ *See WC 4th & Rio Grande, LP v. La Zona Rio, LLC*, No. 08-22-00225-CV (Tex. App.—El Paso); *WC 4th & Rio Grande, LP v. La Zona Rio, LLC*, No. 08-22-00073-CV (Tex. App.—El Paso).

⁵ *WC 4th and Colorado, LP v. Colorado Third Street, LLC*, No. 14-22-00764-CV (Tex. App.—Houston [14th Dist.]).

⁶ *Great Value Storage, LLC, et al. v. Princeton Capital Corporation*, No. 23-0722 (Tex.) (pet. review).

receivership appointment order—affirmed by this Court—in the Third and Fourteenth Courts of Appeals.⁷

More alarming is that Appellants are trying to outrun this Court’s jurisdictional analysis by advancing the same argument in the Texas Supreme Court it will eventually attempt in this Court. Appellants’ point of error number 3 reads:

Whether the trial court abused its discretion by signing a receivership order that sets the Receiver’s fees in advance without requiring evidence to establish the reasonableness of the fee and without providing for any later reasonableness review?⁸

In other words, Appellants are trying to get this Court to delay in the hope of forcing a favorable later ruling, and avoiding jurisdictional dismissal, which would be reported to the Supreme Court and sister Appellate Courts. Two of the attorneys representing Appellants here wrote Appellants’ petition for review.⁹

Finally, in substance the appellate record is not really 15,000 pages. Thousands of those pages are duplicates because Appellants attached and re-attached hundreds of pages of exhibits from each prior motion into each of their multiple successive motions.

⁷ See Appellants’ [WC 4th and Colorado LP and WC 4th and Rio Grande LP] Notice of Objection to Receiver’s Proposed Orders Granting Receiver’s Motion to Dismiss, *WC 4th and Colorado, LP, et al. v. Seth Kretzger, Receiver, et al.*, No. 2021-77945 (165th Dist. Crt. Dec. 15, 2023) at 7, 9.

⁸ Appellants’ Petition for Review, *Great Value Storage, LLC v. Princeton Capital Corp.*, No. 23-0722 (Tex. Nov. 29, 2023) at 2 (appeal from this Court’s opinion in *Great Value Storage, LLC v. Princeton Capital Corp.*, No. 01-21-00284-CV, 2023 Tex. App. LEXIS 2537 (Tex. App.—Houston [1st Dist.] Apr. 20, 2023).

⁹ Mr. Greg Wehrer, Ms. Amanda Price.

The Court should order Appellants to brief jurisdiction before any other action.

The primacy nature of jurisdiction was stated clarion by the Fifth Circuit earlier this week:

“The requirement that jurisdiction be established as a threshold matter . . . is inflexible and without exception.”

— *Netflix, Inc. v. Babin*, No. 22-40786, 2023 U.S. App. LEXIS 33506, *13 n.6 (5th Cir. 2023) (quoting *Pervasive Software Inc. v. Lexware GmbH & Co.*, 688 F.3d 214, 231 (5th Cir. 2012)).

Respectfully submitted this 22nd day of
December 2023,

/s/ *Seth Kretzer*

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ATTORNEY FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been delivered this December 22, 2023 (by court electronic filing only) to all counsel of record in cause 01-23-00618-CV.

/s/ James W. Volberding

JAMES W. VOLBERDING

CERTIFICATE OF COMPLIANCE

As required by Texas Rule of Appellate Procedure 9.4, I certify that the number of words in this pleading is 752, measured from page one through the conclusion, according to Word. This pleading was prepared with Microsoft Word for Apple, version 16.51.

/s/ James W. Volberding

JAMES W. VOLBERDING

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IN SUPPORT OF MOTION FOR EXTENSION OF TIME TO FILE
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Status as of 12/22/2023 8:07 AM CST

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