

Case No. 3:24-cv-07370-GC
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

In re:

THRASIO HOLDINGS, INC., *et al.*,
*Debtors.*¹

Bankruptcy Appeal

Bankruptcy Court Case No.
24-11840 (CMG)
(Jointly Administered)

JOSHUA SILBERSTEIN,
Appellant,

v.

THRASIO HOLDINGS, INC., *et al.*,
Appellees.

**STIPULATION AND ORDER DISMISSING
THIS APPEAL**

Pursuant to Rule 8023 of the Federal Rules of Bankruptcy Procedure and Rule 42(a) of the Federal Rules of Appellate Procedure, the parties to this appeal, filed by Appellant Joshua Silberstein, hereby stipulate and agree that Silberstein will withdraw this appeal, and therefore the appeal will be dismissed, upon the Court so-ordering this stipulation on the terms set forth below.

1. The Appellant, Joshua Silberstein, hereby withdraws this appeal on the condition and with the agreement of the Appellees, Thrasio Holdings, Inc. *et al.*, and the Intervenor, the Official Committee of Unsecured Creditors and the Thrasio Legacy Trust, that the provision in

¹ The last four digits of Debtor Thrasio Holdings, Inc.'s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' Claims, Noticing, and Solicitation Agent at <https://www.kccllc.net/Thrasio>. The Debtors' service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA 02081.



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the Plan² quoted below (the “Gatekeeper provision”) does not apply with respect to any third-party claim, under FRCP 14 (or its equivalent in the Bankruptcy Court or in a state court action), that Silberstein may assert, in the pending action against him, *Meta Advisors, LLC (as Trustee of the Thrasio Legacy Trust) v. Joshua Silberstein et al.*, U.S. Bankruptcy Court, D.N.J., Adversary Proceeding 24-01637-CMG, filed December 3, 2024, or in any other action that the Thrasio Legacy Trust or its trustee may bring against Silberstein. Subject to the foregoing, the Appellees and Intervenor reserve their rights, without relying on or seeking to enforce the Gatekeeper provision, to otherwise assert defenses to any claims alleged by Silberstein, including that any such claims are derivative claims that belong to the Thrasio estate.

The Gatekeeper provision, quoted as it appears in Article VIII.F of the Plan, at page 51 of the Plan (page A-624 in the Appellant’s Appendix in this case), is as follows:

From and after the Effective Date, any Entity (i) that opted out of the releases contained in this Article VIII.F or (ii) was deemed to reject the Plan may not assert any claim or other Cause of Action against any Released Party for which it is asserted or implied that such claim or Cause of Action is not subject to the releases contained in Article VIII.F of the Plan without first obtaining a Final Order from the Bankruptcy Court (a) determining, after notice and a hearing, that such claim or Cause of Action is not subject to the releases contained in Article VIII.F of the Plan and (b) specifically authorizing such Person or Entity to bring such claim or Cause of Action against any such Released Party. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or Cause of Action constitutes a direct or derivative claim, is colorable and, only to the extent legally permissible and as provided for in Article XI of the Plan, the Bankruptcy Court shall have jurisdiction to adjudicate the underlying claim or Cause of Action.”

2. Each party shall bear its own costs.

² The Plan was submitted with the Appendix (ECF Doc. 36-1) to the Appellant’s Opening Brief (ECF Doc. 36) and can be found at pages A-570 to A-635 of the Appendix.

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Dated: January 22, 2025

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Dated: January 22, 2025

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*Counsel for the Official Committee of
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Dated: January 22, 2025

SO-ORDERED:

It is so ordered this 23rd day
of January, 2025
Georgette Castner
Georgette Castner, U.S.D.J.