NOT FOR PUBLICATION
WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

34 LABEL STREET ASSOCIATES, Plaintiff, v. COZZARELLI LAW, LLP, COZZARELLI & COZZARELLI, LLC, FRANK J. COZZARELLI, RICHARD CECERE, ROSEMARIE CECERE, RICHARD CECERE, JR., RORRY, INC., JP MORGAN CHASE BANK, N.A., and JOHN AND JANE DOES, 1-150, Defendants/Third-Party Plaintiffs, v. RICHARD D. TRENK, JESSICA BUFFMAN, TRENK, DIPASQUALE, DELLA FERA & SODONO, P.C., HOWARD SILVER, EMER FEATHERSTONE, and JOHN DOE AND JANE DONE AND ABC CORP., Third-Party Defendants.	: SUPERIOR COURT OF NEW JERSEY : : : ESSEX COUNTY : DOCKET NO.: ESX-L-6942-14 :	**OPINION**

Hearing Held: July 10, 2015
Decided: July 10, 2015
Written Opinion: July 15, 2015

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By: Stephanie A. Mitterhoff, J.S.C.

STATEMENT OF FACTS

On May 5, 2011, 41 days after the Final Judgment in the First Litigation, Cecere and Rorry executed an Assignment, Mortgage and Security Agreement ("First Mortgage") with Cecere's counsel, Cozzarelli Law LLP, listing indebtedness of $350,000 and pledging as collateral Cecere's interest in the Ground Lease, his stock in Rorry Inc., and all equipment, furniture and property located on the Ground Lease premises.

In September 2011, 34 Label filed an Order to Show Cause with Temporary Restraints, which sought to restrain Cecere from distributing Rorry's proceeds. As part of the Order to Show Cause proceedings, William Northgrave, 34 Label's counsel at the time, certified that "It is highly likely that [Cecere and his now defunct corporation, RC Search] have violated the Uniform Fraudulent Transfer Act" Northgrave Cert., June 23 2011. 34 Label's then-counsel also stated on the record that "There appears to be a pattern of actions that have been undertaken by Judgment Debtor Cecere to effectively render him and RC Search judgment proof." Hearings were held on October 18, 2011, November 15, 2011 and December 5, 2011.

On January 19, 2012, 34 Label filed the Second Litigation Complaint seeking additional unreimbursed property taxes and water and sewer charges under the Ground Lease as well as rescission of the Ground Lease under docket number L-496-12. A damages trial is scheduled to be conducted before this court on July 20, 2015 under the Second Litigation docket number.

On September 30, 2014, 34 Label Street filed the instant Third Litigation complaint under docket number, L-6942-14, naming as Defendants Richard Cecere, Rosemarie Cecere, Richard Cecere Jr., Rorry Inc., Cozzarelli Law LLP, Frank J. Cozzarelli, and Cozzarelli and Cozzarelli LLC. Defendants' motions to dismiss on entire controversy doctrine grounds are before the court.

Thereafter, Frank J. Cozzarelli certified that his law firm "assigned its debt to an entity called Icepick, Ltd." Icepick Ltd. is a New Jersey corporation owned by Frank Agrifolio. Cecere testified that Mr. Agrifolio is an associate of Mr. Cozzarelli who works in his office. Gerald Castellano, Rorry's accountant, is listed as Ice Pick's registered agent. The June 8, 2015 application for the change of corporate structure of Rorry mailed to the Township of Montclair for filing lists Frank Agrifolio as the 100% owner of Ice Pick and Ice Pick as the 100% owner of Rorry.

Rorry Inc. filed an assignment for the benefit of creditors pursuant to N.J.S.A. 2A:19-1 et. seq. naming Steven Jurista as assignee of all of its property. 34 Label is not listed as a creditor on Rorry's deed of assignment.

On July 1, 2015 this court entered 34 Label's proposed order to show cause with temporary restraints requiring Defendants to show cause why the court should not enjoin the liquidation of Rorry's assets. After a hearing on short notice on July 2, 2015, the court entered another order to show cause with temporary restraints setting July 10, 2015 as a return date for determining whether the restraints should be kept in place. Defendants filed a motion to vacate the restraints. On July 10, 2015, this court issued a bench ruling vacating the restraints and holding that some of Plaintiff's claims are barred by the entire controversy doctrine.

DISCUSSION

34 Label's application for injunctive relief requires a showing of a likelihood of success on the merits. This raises the issue, which has been pending before the court, of whether 34 Label's claims are barred by the entire controversy doctrine. The court will first address Defendants' motions to dismiss on entire controversy doctrine grounds.

I. Some of Plaintiff's Claims Are Barred By The Entire Controversy Doctrine.

The entire controversy doctrine is codified by R. 4:30A, which states:

> Non-joinder of claims required to be joined by the entire controversy doctrine shall result in the preclusion of the omitted claims to the extent required by the entire controversy doctrine, except as otherwise provided by R. 4:64-5 (foreclosure actions) and R. 4:67-4(a) (leave required for counterclaims or cross-claims in summary actions).

The entire controversy doctrine embodies the principle that adjudication of a legal controversy should occur in one litigation in only one court. Wadeer v. New Jersey Mfrs. Ins. Co., 220 N.J. 591, 595 (2015). However, the entire controversy doctrine does not apply when the claims do not share the same "core set of facts" as the previous litigations. DiTrolio v. Antiles, 142 N.J. 253, 267-268 (1995). Similarly, the entire controversy doctrine does not apply to claims that are "unknown, unarisen, or unaccrued at the time of the original action." K-Land Corp. No. 28 v. Landis Sewerage Auth., 173 N.J. 59, 74 (2002). "The knowledge of the existence of a cause of action which will invoke the entire controversy doctrine is the same as the knowledge which will trigger the running of the statute of limitations in those cases to which the discovery rule of deferred accrual is applicable." Riemer v. St. Clare's Riverside Medical Center, 300 N.J. Super. 101, 109 (N.J. App. Div. 1997), cert. denied 152 N.J. 188 (1997). Further, "The boundaries of the entire controversy doctrine are not limitless. It remains an equitable doctrine whose application is left to judicial discretion based on the factual circumstances of individual cases. Thus, equitable considerations can relax mandatory-joinder requirements when joinder would be unfair." Oliver v. Ambrose, 152 N.J. 383, 394 (1998) (internal quotes and citations omitted). "In considering fairness to the party whose claim is sought to be barred, a court must consider whether the claimant has had a fair and reasonable opportunity to have fully litigated that claim in the original action." Gelber v. Zito Partnership, 147 N.J. 561, 565 (1997). "Courts must carefully analyze each of the pillars of the [entire controversy] doctrine before dismissing claims

or parties to a suit" Ibid. "Preclusion is a remedy of last resort." Olds v. Donnelly, 150 N.J. 424, 427 (1997).

Claims against non-parties to an original action are not precluded unless the non-parties can show both inexcusable conduct and substantial prejudice. Hobart Bros. v. Nat'l Union Fire Ins., 354 N.J. Super. 229, 242 (App. Div. 2002). R. 4:5-1(b)(2) provides that a party's first pleading should identify non-parties who are subject to joinder. In accordance with Hobart, the rule states: "A successive action shall not, however, be dismissed for failure of compliance with this rule unless the failure of compliance was inexcusable and the right of the undisclosed party to defend the successive action has been substantially prejudiced by not having been identified in the prior action." Thus, in both the context of R. 4:5-1 and the entire controversy doctrine generally, non-parties bear the burden of showing inexcusable conduct and substantial prejudice.

Relevant factors to consider in determining whether inexcusable conduct and substantial prejudice has occurred are:

> (1) whether the person not joined in an earlier action is precluded from seeking recovery in a subsequent action; (2) whether a person so precluded can nevertheless be alternatively compensated; (3) whether the failure to join or identify (in a 4:5-1 certification) a person was part of a strategy to thwart the assertion of a valid claim; (4) whether the failure to join or identify a person was unreasonable under the circumstances; (5) whether a person not joined in an action should be charged with constructive knowledge of that action; (6) the extent to which judicial resources were employed in the earlier litigation; and (7) whether a person not joined in an earlier action might be unfairly hampered in their ability to mount a defense, e.g., due to loss of evidence, the running of an applicable period of limitations, or other prejudice…none of these factors is dispositive, but together they suggest a result which must be weighed against a standard of fairness to the parties and the system of judicial administration. [Ctr. for Profl. Advancement v. Mazzie, 347 F. Supp. 2d 150, 157 (D.N.J. 2004); see also Hobart, supra, 354 N.J. Super. 229]

A. The Fraudulent Transfer Claims Challenging the May 5, 2011 Transactions Are Barred by the Entire Controversy Doctrine

The Order to Show Cause entered on October 18, 2011 and the subsequent hearings raised the issue of the validity of the May 5, 2011 First Mortgage transaction, in which Cecere and Rorry acknowledged indebtedness of $350,000 to Cozzarelli Law and pledged as collateral Cecere's interest in the Ground Lease, his stock in Rorry Inc., and all equipment, furniture and property located on the Ground Lease premises. 34 Label's fraudulent transfer claims in the Third Litigation challenge this same transaction and therefore clearly arise out of the identical factual transaction or occurrence as Order to Show Cause proceeding. Moreover, the actual fraudulent transfer claims were known and accrued, as Plaintiff's counsel certified that it was "highly likely" that the transfers were fraudulent. Had the Plaintiff joined in that proceeding the fraudulent transfer claims, it would have been able to satisfy at least three statutory badges of fraud: badge (a) because the transfer was to a Cecere's attorney, an insider; (d) because the transfer was made after Cecere had been sued; and (j) because the transfer occurred shortly after judgment was entered against Cecere and against Cecere's corporation R.C. Search, which totaled $212,777.52, plus some attorneys' fees. The complete factual basis of 34 Label's constructive fraud claims may not have been immediately obvious, as 34 Label had not been provided with the April 2011 invoice, which showed that the transfer was for less than reasonably equivalent value. See N.J.S.A. 25:2-25(b), 25:2-27(a) (requiring a showing that the transfer for was for less than reasonably equivalent value to sustain a claim for constructive fraud). Nevertheless, Plaintiff clearly could have filed an actual fraud claim. If it did so, it could clearly obtain discovery of the invoice, which is directly relevant to the statutory badge of whether the transfer was for reasonably equivalent value, badge (h). Discovery of the invoice would have established a basis to bring the constructive fraud claims.

The court finds that it is not inequitable to bar the fraudulent transfer claims because Plaintiff was clearly in possession of all the requisite facts and knew it had a basis for fraudulent transfer claims. K-Land, supra, 173 N.J. at 74. In fact, then counsel for Plaintiff explicitly cited the Fraudulent Transfer Act before Judge Rosenberg and asserted that the Defendants violated it. Just as Plaintiff knew it had a viable and entirely accrued claim for fraudulent transfer against Cecere, it also clearly knew that it had an equally viable claim against Cozzarelli Law. This situation is distinguishable from Brown v. Brown, 208 N.J. Super. 372, 383 (N.J. App. Div. 1986), where the ""[P]laintiff's matrimonial lawyer refused to raise the tort claim in the divorce action, leaving her in an obvious dilemma. Under that circumstance, her choice of proceeding with the divorce action rather than seeking other legal advice and thereby prejudicing the conclusion of the divorce action was not unreasonable." Unlike the plaintiff in Brown, 34 Label actually raised the fraudulent transfer issue during the order to show cause and such a claim would not have prejudiced the outcome of the first litigation. Therefore, to the extent they arise out of the First Mortgage and Security Agreement, the fraudulent transfer claims are barred by the entire controversy doctrine as against Cecere.

Since neither Mr. Cozzarelli nor Cozzarelli Law were parties to the Order to Show Cause, nor the Second Litigation, they have the burden of proving 34's conduct in failing to join them in these prior litigations was inexcusable conduct that caused them to be substantially prejudiced. Hobart Bros. v. Nat'l Union Fire Ins., 354 N.J. Super. 229, 242 (App. Div. 2002). Using the factors laid out in Ctr. for Profl. Advancement v. Mazzie, 347 F. Supp. 2d 150, 157 (D.N.J. 2004), the court finds that the failure to join claims against Mr. Cozzarrelli and Cozzarelli Law was unreasonable. Judicial resources have been wasted by litigating the issue during the Order

to Show Cause proceeding as well as in the instant case. The delay in bringing the claims has also resulted in substantial factual complexity.

The court further finds that substantial prejudice has been established because Cozzarelli Law continued to provide legal services to Cecere in reliance on the validity of the mortgage documents.

The court holds that Cozzarelli, individually, and Cozzarelli Law have satisfied their burden and the Plaintiff's fraudulent transfer claims challenging the May 5, 2011 First Mortgage transactions are dismissed.

B. The Remainder of the Plaintiff's Claims Are Not Barred

1. Fraudulent Transfer Claims Based on the Second Mortgage and Forbearance Agreement.

Any claims accruing after the July 2014 trial are not be barred by the entire controversy doctrine. The Second Mortgage and Forbearance agreement were executed during the pendency of Second Litigation and recorded shortly after the Second Litigation concluded. Therefore, it would be inequitable to bar the actual and constructive fraudulent transfer claims in their entirety, and any allegations made regarding the Second Mortgage and Forbearance agreement are not dismissed.

2. Piercing the Corporate Veil Claims

Claims against non-parties to an original action are not precluded unless the non-parties can show both inexcusable conduct and substantial prejudice. Hobart Bros. v. Nat'l Union Fire Ins., 354 N.J. Super. 229, 242 (App. Div. 2002). Unlike the fraudulent transfer claims challenging the First Mortgage, the piercing the corporate veil claims against Rorry are not barred by the entire controversy doctrine because Rorry has not suffered prejudice. Rorry has not been precluded from defending itself and has not acted in reliance on Plaintiff's failure to

bring the alter ego claims earlier. To the extent Rorry's innocent creditors may be prejudiced by 34 Label's alter ego claims, that issue is subsumed in the third prong of the 34 Label's reverse piercing claims. See infra Part II (citing Phillips v. Englewood Post No. 322 Veterans of Foreign Wars of the U.S., Inc., 139 P.3d 639, 646 (2006) (requiring a showing that in bypassing normal judgment procedures, the reverse piercing does not prejudice innocent shareholders and creditors)).

3. Common Law Fraud

Additionally, Plaintiff would not have been able to litigate its common law fraud claims in the prior lawsuits, as these claims all arise from misrepresentations that occurred or became known to 34 Label after the July 2014 trial in front of Judge Cresitello. The first element to a common law fraud claim that must be satisfied is a material misrepresentation of a presently existing fact. Gennari v. Weichert Co. Realtors, 148 N.J. 582, 610 (1997). 34 Label alleges that Rosemarie and Richard Cecere misrepresented the true ownership of the furniture in their house and that Cecere misrepresented the true owner ship of the Jaguar XJS at their July 21, 2104 and August 18, 2014 depositions. Because these alleged misrepresentations occurred after the July 2014 trial in the Second Litigation, 34 Labels fraud claims against Rosemarie and Richard are not barred by the entire controversy doctrine. As against Rorry, 34 Label alleges that it fraudulently failed to disclose the circumstances surrounding the proposed sale of the liquor license. Because 34 Label was not aware of all of the circumstances surrounding the proposed sale until it received the October 13, 2014 letter from Essex Hospitality Group terminating the transaction the fraud claims against Rorry are not barred by the entire controversy doctrine.

4. Aiding and Abetting, Conspiracy to Commit Fraud, and Tortious Interference.

In order to establish a claim for aiding and abetting, a plaintiff must show that:

> (1) the party whom the defendant aids performs a wrongful act that causes an injury; (2) the defendant is generally aware of his role as part of an overall illegal or tortious activity at the time he provides the assistance; and (3) the defendant knowingly and substantially assists the principal violation.
> [State, Dept. of Treasury, Div. of Inv. ex rel. McCormac v. Quest Communications, Intern., Inc., 387 N.J. Super. 469, 483 (App. Div. 2006) (internal citations and quotations marks omitted)]

The Appellate Division has "recogni[zed]. . . claims for aiding and abetting liability. . . in cases where one party 'knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement the other so to conduct himself." Id. at 484 (internal citations omitted).

A claim for conspiracy to commit fraud requires (1) a combination of two or more persons; (2) a real agreement or confederation with a common design; (3) the existence of an unlawful purpose, or of a lawful purpose to be achieved by unlawful means; and (4) proof special damages. Naylor v. Harkins, 27 N.J. Super. 594 (Ch. Div. 1953), rev'd in part on other grounds, 32 N.J. Super. 559 (App. Div. 1954). "The gravamen of an action in civil conspiracy is not the conspiracy itself but the underlying wrong which, absent the conspiracy, would give a right of action." Board of Education v. Hoek, 38 N.J. 213, 238 (1962).

In order to prove a claim for tortious interference with economic advantage, a party must show: (1) a protected interest; (2) malice (i.e., defendant's intentional interference without justification); (3) a reasonable likelihood that the interference caused the loss of prospective gain: and (4) resulting damages. Vosough v. Kierce, 437 N.J. Super. 218, 234 (App. Div. 2014), cert. denied 221 N.J. 218 (2015)

The court holds that it would be inequitable to bar the Plaintiff's aiding and abetting, conspiracy, and tortious interference claims since it did not have sufficient knowledge to bring a claim alleging an "overall illegal or tortious activity," "a real agreement or confederation with a

common design," or malicious interference with 34 Label's ability to collect on its judgments. The essence of 34 Label's aiding and abetting, conspiracy, and tortious interference claims is that Defendants assisted Cecere in engaging in a course of conduct designed to wrongfully prevent 34 Label from collecting on its judgments. The existence of the alleged fraudulent scheme was not apparent until Cecere testified that he preferred to pay Cozzarelli Law over 34 Label, Defendants allegedly made misrepresentations in post judgment depositions following the July 2014 trial, and Rorry filed for bankruptcy in November 2014, allegedly in bad faith to prevent the liquidation of the liquor license. These events all occurred during or after the July 2014 trial and the court finds that 34 Label's claims for aiding and abetting fraud, conspiracy to commit fraud, and tortious interference with prospective economic advantage are not barred by the entire controversy doctrine.

In sum, the fraudulent transfer claims challenging the First Mortgage transaction are barred the entire controversy doctrine, but the remaining counts stand.

II. 34 Label's Application for Temporary Restraints is Denied.

Temporary injunctive relief is appropriate where a party demonstrates (1) irreparable harm; (2) probable success on the underlying claim; and (3) balancing the relative hardships to the parties, the equities favor the party seeking relief. Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982).

The court finds that 34 Label has not made a sufficient showing of a likelihood of success on the merits of its fraudulent transfer claims. As explained above, 34 Label's fraudulent transfer claims challenging the May 5, 2011 First Mortgage transactions, which gave Cozzarelli Law a security interest in Rorry's stock and assets, including the liquor license, and Cecere's interest in the Ground Lease, are barred by the entire controversy doctrine ground. Because

these claims are barred, the fraudulent transfer claims cannot form a basis to challenge Cozzarelli's foreclosure of its security interest in the Rorry stock, the subsequent assignment to Ice Pick, or the subsequent assignment to Mr. Jurista. Although 34 Label also challenges the Second Mortgage transaction which occurred in 2013, avoidance of this transaction cannot form the basis for the injunctive relief requested here because Cozzarelli Law can rely on the First Mortgage transaction.

In contrast, the Court finds that Plaintiff has shown a likelihood of success on its alter ego claims. "The purpose of the doctrine of piercing the corporate veil is to prevent an independent corporation from being used to defeat the ends of justice, to perpetrate fraud, to accomplish a crime, or otherwise to evade the law." State, Dep't of Environmental Protection v. Ventron Corp., 94 N.J. 473, 500 (1983) (citations omitted).

Courts may pierce a corporate veil if the plaintiff shows that corporation was a "mere instrumentality" of the parent by showing that "the parent so dominated the subsidiary that it had no separate existence but was merely a conduit for the parent." Id. at 500-501. "Even in the presence of corporate dominance, liability generally is imposed only when the parent has abused the privilege of incorporation by using the subsidiary to perpetrate a fraud or injustice, or otherwise to circumvent the law." Id. at 501.

"In the classic application of piercing the corporate veil, a court disregards the existence of a corporation to make the corporation's individual principals and their personal assets liable for the debts of the corporation." Sasco 1997 NI, LLC v. Zudkewich, 2007 N.J. Super. Unpub. LEXIS 2102, at *51 (App. Div. June 27, 2007) (citations and internal quotation marks omitted). In contrast, in reverse piercing claims, "assets of the corporate entity are used to satisfy the debts of a corporate insider so that the corporate entity and the individual will be considered one and

the same." Id. at *51-52 (citations and internal quotation marks omitted). Here, 34 Label's alter ego claims are reverse piercing claims because 34 seeks to use Rorry's assets to satisfy the debts of Rorry's stockholder, Cecere. See ibid. New Jersey case law on reverse piercing is sparse. Id. at *52. Colorado and Nevada recognize that reverse piercing may be appropriate when a dominant shareholder uses the corporation to hide assets or conduct business to avoid the shareholder's preexisting creditors. Phillips v. Englewood Post No. 322 Veterans of Foreign Wars of the U.S., Inc., 139 P.3d 639, 645 (2006) (citing LFC Marketing Group, Inc. v. Loomis, 8 P.3d 841, 846 (Nev. 2000)). Under Colorado law, reverse piercing is appropriate if plaintiff makes a clear showing that:

> (1) the controlling insider and the corporation are alter egos of each other,
> (2) justice requires recognizing the substance of the relationship over the form because the corporate fiction is utilized to perpetuate a fraud or defeat a rightful claim, and
> (3) an equitable result is achieved by piercing.
> [Id. at 646; accord LFC Marketing, supra, 8 P.3d at 846-47.]

The equitable result element requires a showing that in bypassing normal judgment procedures, the reverse piercing does not prejudice innocent shareholders and creditors. Phillips, supra, 139 P.3d at 646. New York allows reverse piercing claims to proceed on a similar showing. Harvardsky Prumyslovy Holding, AS. - V Likvidaci v. Kozeny, 983 N.Y.S.2d 240, 244 (App. Div. 2014); New York v. Easton, 647 N.Y.S.2d 904, 909 (Sup. Ct. 1995); Guptill Holding Corp. v. New York, 307 N.Y.S.2d 970, 973 (App. Div. 1970) (considering reverse piercing claims but rejecting them when plaintiff failed to show an equitable basis to reverse pierce). Florida also permits reverse piercing claims. Estudios, Proyectos E Inversiones de Centro America, S.A. v. Swiss Bank Corp. S.A. 507 So.2d 1119, 1120 (Fla. Dist. Ct. App. 1987).

Here, as to the first factor articulated in Phillips, supra, 139 P.3d at 646, the court finds it relevant that at least until very recently, Cecere exercised absolute control over Rorry. For

example, Cecere caused Rorry to become indebted to Cozzarelli Law for attorney's fees incurred for representing him personally. This suggests that Cecere and Rorry are alter egos because Cecere dominated Rorry and used it as a conduit to funnel liability away from him personally. See Ventron Corp., 94 N.J. at 501-02. Furthermore, the restaurant has been closed for several years and Rorry's activities at this juncture appear to be limited to holding the liquor license. The Court finds that 34 Label has a sufficient likelihood of success in its attempts to show that Cecere and Rorry are alter egos.

As to whether justice requires recognizing substance over form, the court notes Cecere explicitly testified that he preferred to pay Frank J. Cozzarelli over 34 Label. Cecere owed substantial sums to both Cozzarelli Law and 34 Label. By allowing Cozzarelli Law to become a creditor of Rorry for attorney's fee obligations that were incurred in defending Cecere personally and not Rorry, Cecere essentially modified the structure of his obligations in a way that prioritizes Cozzarelli Law. Cozzarelli Law is the direct creditor of the entity holding the major liquid asset controlled by Cecere, while 34 Label is relegated to the status of a creditor of the shareholder of the entity holding that asset. This structure allows Cozzarelli Law to collect on its debt by liquidating the liquor license while keeping its proceeds insulated from 34 Label's reach.

As to the third factor of an equitable result, the court cannot resolve the issue on this application because until the damages trial is resolved, it is unclear what the total amount of 34 Label's judgments will be and the court has not been provided with enough information about Rorry's other creditors. Moreover, Rorry's financial condition and the innocence or lack thereof of other creditors is better addressed by a court overseeing insolvency proceedings than this court.

The court finds that 34 Label will not incur irreparable harm if the Assignment of the Benefit of Creditors proceeding is allowed to go forward. The statute defines "debt" as "any debt, demand or claim," N.J.S.A. 2A:19-1(e), and explicitly allows presentation of claims that are not yet due, N.J.S.A. 2A:19-22. This broad definition accords with the corporate receivership statute which defines "debt" as "any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent." N.J.S.A. 14A:14-1. Similarly, the Federal Bankruptcy Code defines "debt" as "liability on a claim" and defines "claim" as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured" as well as a "right to an equitable remedy," a definition which is broad enough to encompass claims brought in lawsuits filed after the bankruptcy petition when based on prepetition conduct. 11 U.S.C. § 101(5), (12); Grady v. A.H. Robbins Co., 839 F.2d 198 (4th Cir. 1988). New Jersey courts recognize "that the rationales behind the statutes dealing with corporate receiverships, N.J.S.A. 14A:14-1 et seq., and assignments for the benefit of creditors, N.J.S.A. 2A:19-1 et seq., are identical" and that "receivership cases supply instructive precedent for" assignment proceedings. In re Holly Knitwear, Inc., 115 N.J. Super. 564, 571 (Probate Div. 1971). The court finds that under the assignment statute, 34 Label will have the opportunity to argue that it is a creditor of Rorry and present its reverse piercing claims. If successful on those claims, 34 Label may also be protected by the provision of the statute that creates a landlord's lien for unpaid rent. N.J.S.A. 2A:19-31–32. If 34 Label believes that Mr. Jurista is not neutral or 34 Label is otherwise aggrieved by his decisions, it will be protected because the statute allows for judicial review. N.J.S.A. 2A:19-29. The courts finds that the Chancery Division can and should

decide the issue of whether 34 Label can reverse pierce and whether 34 Label is a creditor of Rorry.

Because 34 Label has failed to show a likelihood of success and irreparable harm, the court will vacate the restraints imposed on Defendants and allow the Assignment for the Benefit of Creditors to proceed.