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Yellow: Pension plan unjustly seeking 'free money' from bankruptcy case

Dec. 15, 2023

Lawyers for the shuttered trucking giant say Central States can't double-dip after getting a federal bailout. They also tease the 'truly rare' possibility that shareholders will get a sizable payout.

Geert De Lombaerde

Attorneys for the defunct **Yellow Corp.** say a large pension fund shouldn't be allowed to receive hundreds of millions of dollars from the company's bankruptcy sales because the federal government

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submitted by the Central States Pension Fund are "demonstrably, massively, and improperly overstated" and should be thrown out. At the very least, Yellow attorneys wrote, Judge Craig T. Goldblatt should massively reduce the scope of Central States' demands because the pension plan was bailed out by the federal Pension Guaranty Benefit Corp. early this year under the umbrella of the American Rescue Plan Act.

Central States is a multiemployer fund affiliated with the International Brotherhood of Teamsters union with which Yellow clashed this spring over restructuring plans. When that dispute came to a head early in the summer—Yellow **sued the Teamsters in late June** and soon after missed a monthly pension payment—the Teamsters made plans for a strike that, while called off at the last minute, crippled Yellow's business and led to its closing in late July.

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On the heels of Yellow filing Chapter 11 bankruptcy papers in early August, the administrators of Central States filed claims asking the court to award them nearly \$5 billion in withdrawal liabilities (because Yellow is no longer contributing to the fund) and another \$900 million in so-called participation guarantees.

The core of Yellow's counterargument is simple: PBGC's \$36 billion payout made Central States whole, and the pension plan can't be paid twice for the same obligations. They also point out that the amount paid to Central States was so large partly because the

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"This is 'free money' that CSPF does not need," Yellow attorneys wrote. "CSPF cannot attempt to penalize the Debtors and recover hundreds of millions of dollars in damages it has not sustained."

The lawyers also say that the pension fund's requests are "precisely the artificial sort of claims-creation that Bankruptcy Courts frequently reject." The reality is a little less clear, though: Employee benefits attorney Michael Schloss of The Wagner Law Group **told Bloomberg Law in August that there's no precedent** for how a pension plan's government bailout should figure into claims on a bankrupt company's assets.

Thomas Nyhan, executive director of Central States, didn't respond to a request for comment on Yellow's recent filing. Central States' legal team has until Dec. 22 to file a response with the court, and a hearing on the matter has been scheduled for late January.

A payday for Yellow shareholders?

In their lengthy filing, Yellow's attorneys also make a notable claim about the likelihood that the defunct company's shareholders—which include the U.S. Department of the Treasury—will receive a material amount of money from the sale of assets. The recent auction of 128 owned and two leased Yellow properties will soon **bring in nearly \$1.9 billion** that will more than satisfy the company's most important debt obligations and will be supplemented by other real estate sales as well as the steady disposition of Yellow's trucks and trailers.

"These Chapter 11 cases should result in the truly rare circumstance

Yellow's largest shareholder is investment firm MFN Partners, which this summer quickly built a stake of more than 40% and also has helped fund Yellow during its bankruptcy case alongside hedge fund Citadel. (Those loans are among those to be paid off with the \$1.9 billion being raised.) The Treasury owns a 30% stake in Yellow, a holding it received as part of granting the company a controversial \$700 million CARES Act loan in 2020.

Other investors reacted quickly to the successful real estate auction and the resulting possibility that shareholders will get a piece of the Chapter 11 process' proceeds: After closing at \$1.46 Dec. 1, shares of Yellow (Ticker: **YELLQ**) ended trading Dec. 14 at \$3.83. That values Yellow's equity at about \$200 million—more than three times its worth in late July.

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