

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re	:	CHAPTER 11
	:	(Jointly Administered)
TOUCH AMERICA HOLDINGS, INC,	:	
<i>et al.</i>	:	Case No. 03-11915 (KJC)
Debtors	:	
	:	
BRENT WILLIAMS, Plan Trustee for	:	
Touch America Holdings, Inc. and its	:	
Affiliated Debtor Entities, as Successor	:	
In Interest to the Former Committee of	:	
Unsecured Creditors	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MARGARET A. MCGREEVEY,	:	
THOMAS G. TAYLOR,	:	
JOANNE BARKELL,	:	
PATRICK BURTON,	:	
ROSALIE BURTON,	:	
JAMES DUDLEY,	:	
JOSEPH MARTELLI, and	:	
LAWRENCE A. LOMBARDO	:	
Defendants	:	Adv. Pro. No. 08-51415 (KJC)

ORDER

AND NOW, this 3rd day of February, 2009, upon consideration of (i) Motion to Dismiss (docket no. 20)(the “McGreevey Motion to Dismiss”), (ii) the Motion for Certification of Issues to the Montana Supreme Court (docket no. 22)(the “McGreevey Motion to Certify Issues”), and the Motion by the Plan Trustee for Summary Judgment, or in the Alternative, Preliminary Injunction (docket no. 35)(the “Trustee Summary Judgment Motion”), and the responses filed thereto, and after oral argument, and for the reasons set forth in the foregoing Memorandum, it is

hereby **ORDERED** and **DECREED** that

- (i) the McGreevey Motion to Dismiss and the McGreevey Motion to Certify Issues are **DENIED**;
- (ii) the Trustee Summary Judgment Motion is **GRANTED**, in part, and it is declared that the third claim in the Fourth Amended Complaint filed in the case of *McGreevey v. The Montana Power Company*, pending in the United States District Court for the District of Montana, Butte Division (case no. 03-cv-01-BU-SEH) (defined as the "McGreevey O&D Claim" in the foregoing Memorandum), is a derivative claim; and
- (iii) the Trustee Summary Judgment Motion is **DENIED**, in part, regarding the Trustee's request for an injunction.

It is further **ORDERED** that an status hearing will be held on **February 24, 2009** at **1:30 p.m.** in Bankruptcy Courtroom No. 5, 824 Market Street, Fifth Floor, Wilmington, Delaware, to determine the remaining pre-trial needs of the parties, if any, and, if appropriate, to fix a trial date.

BY THE COURT:



KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE

cc: Margaret Whiteman Greecher, Esquire¹

¹Counsel shall serve a copy of this Order and the accompanying Memorandum upon the Honorable Sam E. Haddon, United States District Court Judge for the District of Montana, and all interested parties, and file a Certificate of Service with the Court.