

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

**TRUSTEE'S MOTION TO STAY DEADLINES
IN ELMORE CONTESTED MATTER**

James A. Knauer ("Trustee") respectfully requests that the Court stay the remaining deadlines set forth in the *Order Granting Agreed Motion to Extend Deadlines in Scheduling Order Regarding Contested Matter Involving Rex Elmore's Reserved Objections to Trustee's Purchase Money Claims Report* (Doc. No. 952) (the "Scheduling Order") and states the following in support:

1. This contested matter between the Trustee and creditor Rex Elmore ("Elmore") involves the same legal issues that have been raised in other adversary proceedings and contested matters pending under the umbrella of Eastern Livestock's bankruptcy. More specifically, Elmore's objection to the Trustee's purchase money claims report is premised entirely on a theory of constructive trust.

2. In ruling on the constructive trust issue in the "Texas Interpleader," the Court granted the Trustee's summary judgment motion "foreclosing claims based on the proposition that any unpaid seller of cattle has a constructive trust or similar equitable interest derived from common law." *Order on Trustee's Motion for Partial Summary Judgment* (the "Constructive Trust Order") p. 2, Doc. No. 379, AP No. 11-59093. The Court indicated this ruling also applied to another contested matter in Eastern's bankruptcy in which this issue had been briefed and also issued an order in the "Downs adversary proceeding" on the same grounds.

See id. at p.2 n.2; *see also Order on Trustee's Motion for Partial Summary Judgment*, Doc. No. 59, AP No. 11-59086.

3. The Trustee believes that the reasoning in the Constructive Trust Order applies with equal force to the instant dispute and effectively disposes of Elmore's objection to the purchase money claims report. Accordingly, the Trustee has requested that Elmore withdraw his objection.

4. In the event Elmore does not withdraw his objection by Friday, March 9, 2012, the Trustee intends to move formally for summary judgment requesting that the Court enter an order with respect to this contested matter expressly adopting its reasoning from the Constructive Trust Order.

5. Currently, the Scheduling Order establishes a March 5, 2012, deadline by which the Parties shall file with the Court a stipulation of material facts not in dispute and a notice identifying their suggested fact and legal issues to be decided by the Court and a March 30, 2012, dispositive motion deadline. No trial or hearing date has been set.

6. The Trustee seeks to stay these remaining deadlines set forth in the Scheduling Order to permit either Elmore to withdraw his objection or the Trustee to file a dispositive motion, as described above.

WHEREFORE, the Trustee respectfully requests that the Court enter an order staying the deadlines contained in the Scheduling Order and granting all other appropriate relief.

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*Counsel for James Knauer, as Chapter 11 Trustee
for Eastern Livestock Co., LLC*

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 5, 2012, a copy of the foregoing pleading was served via electronic mail transmission on the following:

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