

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE: : CASE NO. 10-93904-BHL-11
EASTERN LIVESTOCK CO., LLC, : (Judge Basil H. Lorch III)
Debtor. :
: **MOTION OF THE FIRST BANK**
: **AND TRUST COMPANY FOR**
: **EXPEDITED HEARING ON**
: **MOTION TO REMOVE PUBLICLY**
: **FILED DOCUMENTS FROM**
: **STRICTURES OF ORDER**
: **GRANTING MOTION FOR ENTRY**
: **OF STIPULATED**
: **CONFIDENTIALITY AGREEMENT**
:

Creditor The First Bank and Trust Company ("First Bank") moves this Court for an expedited hearing on the Motion to Remove Publicly Filed Documents from Strictures of Order Granting Motion for Entry of Stipulated Confidentiality Agreement ("Motion to Remove Public Documents") [Dkt. No. 1165].

I. JURISDICTION

1. This Court has jurisdiction of this proceeding under 28 U.S.C. §1334(a) and 157(b), and this matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (O). Venue is proper in this district pursuant to 18 U.S.C. §1409(a).

II. BACKGROUND

2. On May 16, 2012, First Bank filed a Complaint for Money Damages ("Complaint") in Hamilton County, Ohio, against Fifth Third Bank and Fifth Third Bancorp

(collectively "Fifth Third"). The Complaint reveals no trade secret of Fifth Third Bank and attaches no documents that Fifth Third had stamped "Confidential" in any proceeding.

3. On May 17, 2012, Fifth Third responded to the Complaint by filing an emergency motion to seal the Complaint ("Motion to Seal"). Fifth Third contends that the documents upon which First Bank's Complaint relies are confidential pursuant to the Stipulated Confidentiality Agreement [Dkt. No. 722]. On May 22, 2012, First Bank filed a Memorandum in Opposition and on May 24, 2012, Fifth Third filed its Reply.

4. In response to Fifth Third's misuse of the Stipulated Confidentiality Agreement, First Bank recently filed a request for an immediate evidentiary hearing on the matter, and the Ohio state court will soon address Fifth Third's Motion to Seal after an appropriate hearing under Ohio Rule of Superintendence 45, which governs the procedure for filing court materials "under seal."

5. As further discussed in First Bank's Motion to Remove Public Documents, Fifth Third's suggestion that all of its documents are confidential because of the "confidential" stamp lacks merit and rings hollow.

6. This Motion does not result in prejudice to any party and is essentially this Bankruptcy Court giving simple and non-controversial full faith and credit to the Order of a State Court judge on overlapping issues of interest. It is necessary for this Court to resolve this issue, and First Bank requests that this Court expedite the hearing on First Bank's Motion to Remove Public Documents to be conducted on Monday, June 11, 2012, which is the same day as the Omnibus hearing.

III. CONCLUSION

7. For the foregoing reasons, in addition to the fact that no party will suffer prejudice as a result of this Motion, First Bank requests an expedited hearing concerning First Bank's Motion to Remove Public Documents to be conducted on June 11, 2012.

Respectfully submitted,

/s/ Daniel J. Donnellon

Daniel J. Donnellon, pro hac vice
Stephen A. Weigand, pro hac vice
FARUKI IRELAND & COX P.L.L.
201 East Fifth Street, Suite 1420
Cincinnati, OH 45202
Telephone: (513) 632-0300
Telecopier: (513) 632-0319
Email: ddonnellon@ficlaw.com
sweigand@ficlaw.com

Attorneys for The First Bank and Trust
Company

CERTIFICATE OF SERVICE

I certify that on the 6th day of June, 2012, I electronically filed the foregoing Motion of The First Bank and Trust Company For Expedited Hearing with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to CM/ECF participants, and I hereby certify that I have mailed by United States Postal Service the document to the non-CM/ECF participants:

David L. Abt
davidabt@mwt.net

John Frederick Massouh
john.massouh@sprouselaw.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

C.R. Bowles, Jr
crb@gdm.com

John W. Ames
jwa@gdm.com

John M. Thompson
john.thompson@crowedunlevy.com

James A. Knauer
jak@kgrlaw.com

Robert Hughes Foree
robertforee@bellsouth.net

Jessica E. Yates
jyates@swlaw.com

John Hunt Lovell
john@lovell-law.net

Kim Martin Lewis
kim.lewis@dinslaw.com

Matthew J. Ochs
matt.ochs@moyewhite.com

Mark A. Robinson
mrobinson@vhrlaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Laura Day Delcotto
ldelcotto@dlgfir.com

Jeffrey R Erler
jeffe@bellnunnally.com

Ivana B. Shallcross
ibs@gdm.com

Kelly Greene McConnell
lisahughes@givenspursley.com

Edward M King
tking@fbtlaw.com

Deborah Caruso
decaruso@daleek.com

T. Kent Barber
kbarber@dlgfir.com

Randall D. LaTour
rdlatour@vorys.com

Meredith R. Thomas
mthomas@daleeke.com

Ross A. Plourde
ross.plourde@mcafeetaft.com

Bret S. Clement
bclement@acs-law.com

William Robert Meyer, II
rmeyer@stites.com

Walter Scott Newbern
wsnewbern@msn.com

John R. Carr, III
jrciii@acs-law.com

Christie A. Moore
cm@gdm.com

Kirk Crutcher
kcrutcher@mcs-law.com

James M. Carr
jim.carr@bakerd.com

Allen Morris
amorris@stites.com

Todd J. Johnston
tjohnston@mcjllp.com

Robert K. Stanley
robert.stanley@bakerd.com

James Bryan Johnston
bjtexas59@hotmail.com

Timothy T. Pridmore
tpridmore@mcjllp.com

Terry E. Hall
terry.hall@bakerd.com

James T. Young
james@rubin-levin.net

Theodore A Konstantinopoulos
ndohbky@jbandr.com

Dustin R. DeNeal
dustin.deneal@bakerd.com

David L. LeBas
dlebas@namanhowell.com

Karen L. Lobring
lobring@msn.com

Sandra D. Freeburger
sfreeburger@dsf-atty.com

Lisa Kock Bryant
courtmail@fbhlaw.net

Elliott D. Levin
robin@rubin-levin.net
edl@trustesolutions.com

John M. Rogers
johnr@rubin-levin.net

Jeremy S. Rogers
Jeremy.rogers@dinslaw.com

John David Hoover
jdhoover@hovverhull.com

Sean T. White
swhite@hooverhull.com

Robert H. Foree
robertforee@bellsouth.net

Michael W. McClain
mike@kentuckytrial.com

William E. Smith
wsmith@k-glaw.com

Susan K. Roberts
skr@stuartlaw.com

James Edwin McGhee
mcghee@derbycitylaw.com

Thomas C. Scherer
tscherer@binghamchale.com

David A. Laird
david.laird@moyewhite.com

Jerald I. Ancel
jancel@taftlaw.com

Jeffrey J. Graham
jgraham@taftlaw.com

Trevor L. Earl
tearl@rwsvlaw.com

Christopher E. Baker
cbaker@hklawfirm.com

David Alan Domina
dad@dominalaw.com

Kent A. Britt
kabritt@vorys.com

Joshua N. Stine
jnstine@vorys.com

Jill Zengler Julian
Jill.Julian@usdoj.gov

Jeffrey L. Hunter
jeff.hunter@usdoj.gov

Amelia Martin Adams
aadams@gldfirm.com

Michael Wayne Oyler
moyler@rwsvlaw.com

Jason W. Cottrell
jwc@stuartlaw.com

Robert A. Bell
rabell@vorys.com

Andrea L. Wasson
andreawassonatty@gmail.com

Anthony G. Raluy
traluy@fbhlaw.net

Harmony A. Mappes
Harmony.mappes@faegrebd.com

James B. Lind
jblind@vorys.com

James E. Rossow, Jr.
jim@rubin-levin.net

Jeffrey R. Erler
jeffe@bellnunnally.com

Kelly Greene McConnell
lisahughes@givenspursley.com

Kevin M. Toner
Kevin.toner@faegrebd.com

Kim Martin Lewis
Kim.lewis@dinslaw.com

Melissa S. Giberson
msgiverson@vorys.com

John Huffaker
John.huffaker@sprouselaw.com

Shawna M. Eikenberry
Shawna.eikenberry@faegrebd.com

Wendy W. Ponader
Wendy.ponader@faegrebd.com

/s/ Daniel J. Donnellon
Daniel J. Donnellon