

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
)
)
CORUS BANKSHARES, INC.) Case No. 10-26881 (PSH)
)
Reorganized Debtor.) Honorable Pamela S. Hollis

**NOTICE OF MOTION OF THE REORGANIZED DEBTOR FOR STAY OF
DISCOVERY PENDING RULING ON THE REORGANIZED DEBTOR'S
DISPOSITIVE MOTION FOR JUDGMENT ON THE PLEADINGS**

TO: Attached Service List

PLEASE TAKE NOTICE that on Thursday, August 16, 2012 at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Pamela S. Hollis or another judge sitting in her stead at the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division at 219 S. Dearborn Street, Courtroom 644, Chicago, Illinois 60604, and then and there present the Motion of the Reorganized Debtor for Stay of Discovery Pending Ruling on the Reorganized Debtor's Dispositive Motion for Judgment on the Pleadings, a copy of which is hereby served upon you.

Dated: August 9, 2012

Respectfully Submitted,

/s/ Micah E. Marcus

John F. Hartmann, P.C. (ARDC No. 6195482)

Micah E. Marcus (ARDC No. 6257569)

Eric A. Larson (ARDC No. 63000298)

KIRKLAND & ELLIS LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Counsel to the Reorganized Debtor

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
)	
CORUS BANKSHARES, INC.,)	Case No. 10-26881 (PSH)
)	
Reorganized Debtor.)	Honorable Pamela S. Hollis
)	

**MOTION OF THE REORGANIZED DEBTOR FOR STAY OF DISCOVERY PENDING
RULING ON THE REORGANIZED DEBTOR'S DISPOSITIVE MOTION FOR
JUDGMENT ON THE PLEADINGS**

Now comes the Reorganized Debtor, Corus Bankshares, Inc. ("Reorganized Debtor"), by and through its undersigned counsel, and hereby seeks an order of this Court for a stay of discovery pursuant to Fed. R. Bank. P. 9014 and 7026(c) pending the Court's ruling on its pending *Motion for Judgment on the Pleadings*, and in support thereof, states as follows:

1. On August 9, 2012, the Reorganized Debtor filed its Motion for Judgment on the Pleadings on the *Amended Motion of the Federal Deposit Insurance Corporation, as Receiver for Corus Bank, N.A., to Establish Priority Senior to TOPrS Debt* (the "Priority Motion") (Dckt. No. 790). The overarching point shown by the Reorganized Debtor's motion is that the FDIC's Priority Motion fails as a matter of law.

2. This Court should stay any further discovery in this matter pending its consideration and resolution of the Reorganized Debtor's motion. A stay of additional discovery will prevent the waste of time, effort and expense that both parties will incur to pursue discovery, including expert discovery, that ultimately will be unnecessary in the event the Reorganized Debtor's motion for judgment on the pleadings is granted. The resulting savings of resources not only advance the interests of judicial economy, but also will inure to the ultimate benefit of the

creditor beneficiaries of the estate being administered by the Reorganized Debtor and of the receivership being administered by the FDIC.

3. The authority of this Court to issue a stay under such circumstances is well established. *See, e.g., Landstrom v. Illinois Dep't of Children & Family Servs.*, 892 F.2d 670, 674 (7th Cir. 1990); (proper to enter order staying discovery pending resolution of qualified immunity claims); *First Nat'l Bank v. Cities Serv. Co.*, 391 U.S. 253, 88 S. Ct. 1575, 20 L. Ed. 2d 569 (1968) (limitations on general pre-trial discovery not improper if additional discovery would merely amount to a fishing expedition); *Patterson v. United States Postal Serv.*, 901 F.2d 927, 929 (11th Cir. 1990) (proper to enter order staying discovery pending resolution of motion to dismiss or motion for summary judgment); *Jarvis v. Regan*, 833 F.2d 149, 155 (9th Cir. 1987) (proper to enter order staying discovery pending resolution of Rule 12(b) motion); *Feist v. Jefferson County Comm'rs Court*, 778 F.2d 250, 252–53 (5th Cir. 1985) (proper to determine first whether plaintiff raised a claim upon which relief could be granted prior to authorizing discovery); *Florsheim Shoe Co. v. United States*, 744 F.2d 787, 797 (Fed. Cir. 1984) (proper to enter order staying discovery pending resolution of motion to dismiss). Furthermore, the Court may grant a motion to stay discovery pursuant to Rule 26(c) in order to secure the “just, speedy and inexpensive determination of every action.” *Chagnon v. Bell*, 642 F.2d 1248 (D.C. Cir. 1980), *cert. denied*, 453 U.S. 911, 101 S. Ct. 3142, 69 L. Ed. 2d 994 (1981) (*citing Herbert v. Lando*, 441 U.S. 153, 99 S. Ct. 1635, 60 L. Ed. 2d 115 (1979) (*citing Fed. R. Civ. P. 1*)).

4. Simply put, given that the Reorganized Debtor’s motion, if granted, would moot the need for any further discovery, the Court should grant a stay of any such further discovery pending its resolution of the motion.

WHEREFORE, the Reorganized Debtor requests that the Court enter an order staying discovery in this action pending the Court's resolution of its Motion for Judgment on the Pleadings and for any and all other relief that this Court deems just and proper.

Dated: August 9, 2012
Chicago, Illinois

Respectfully Submitted,

By: /s/Micah E. Marcus
John Hartmann, P.C. (ARDC No. 6195482)
Micah E. Marcus (ARDC No. 625769)
Eric A. Larson (ARDC No. 6300298)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
(312) 862-2000 (telephone)
(312) 862-2200 (facsimile)

Counsel to the Reorganized Debtor

CERTIFICATE OF SERVICE

I, Micah E. Marcus, an attorney, hereby certify that on the 9th day of August, 2012, I caused a true and correct copy of the foregoing *Notice and Motion of the Reorganized Debtor for Stay of Discovery Pending Ruling on the Reorganized Debtor's Dispositive Motion for Judgment on the Pleadings* to be electronically filed. Notice of this filing will be sent by operation of the Court's electronic filing system. A copy of the foregoing will also be sent electronically to those parties below who have provided email addresses and via U.S. Mail to those parties without email addresses.

**Bartlett Hackett Feinberg PC
(Iron Mountain Information Management,
Inc.)**

Frank F. McGinn Esq.
155 Federal Street, 9th Street
Boston, MA 02110
ffm@bostonbusinesslaw.com

**Duane Morris LLP
(Tricadia Capital Management)**

G. Catalanello
J. Vincequerra
1540 Broadway
New York, NY 10036
gcatalanello@duanemorris.com

**Kaye Scholer LLC
(Bank of America NA Trustee)**

M. Messersmith
J. Ben
Derrick Zandpour
70 W. Madison Street, Suite 3100
Chicago, IL 60602
mmessersmith@kayescholer.com
jben@kayescholer.com
dzandpour@kayescholer.com

**Loeb & Loeb LLP
(Wells Fargo Bank NA)**

Blair R. Zanzig
321 North Clark Street
Suite 2300
Chicago, IL 60654
bzanzig@loeb.com

**Lowenstein Sandler PC
(Todd L. Johnson)**

M. Etkin
W. Jung
S. Quigley
65 Livingston Avenue
Roseland, NJ 07068
metkin@lowenstein.com
squigley@lowenstein.com
wjung@lowenstein.com

**Neal Gerber & Eisenberg LLP
(Committee of Secured Creditors)**

Mark Berkoff
Deborah Gutfeld
Nicholas M. Miller
Kevin G. Schneider
Two North LaSalle Street, Suite 1700
Chicago, IL 60602-3801
mberkoff@ngelaw.com
dgutfeld@ngelaw.com
nmiller@ngelaw.com
kschneider@ngelaw.com

**Duane Morris LLP
(Tricadia Capital Management)**

John Robert Weiss
190 South LaSalle, Street 3700
Chicago, IL 60603-3433
jrweiss@duanemorris.com

**Loeb & Loeb LLP
(Wells Fargo Bank NA)**

W. Curchack
V. Rubinstein
345 Park Avenue
New York, NY 10145
wcurchack@loeb.com
vrubinstein@loeb.com

**Robbins Geller Rudman & Dowd LLP
(Todd L. Johnson et al)**

J. Rice
R Llorens
S. Holloway
100 Pine Street, Ste. 2600
San Francisco, CA 94111
jrice@rgrdlaw.com
sholloway@rgrdlaw.com
ryanl@rgrdlaw.com

Securities & Exchange Commission

Sonia Chae
175 West Jackson Blvd.
Suite 900
Chicago, IL 60604
chaes@sec.gov

PBGC

Deborah J. Bisco
1200 K Street NW, Ste. 340
Washington, DC 20005-4026
Bisco.Deborah@pbgc.gov

**Kilpatrick Townsend & Stockton LLP
(Committee of Secured Creditors)**

Todd Meyers
Robbin S. Rahman
1100 Peachtree Street NE
Ste. 2800
Atlanta, GA 30309-4530
tmeyers@kilpatricktownsend.com
rrahman@kilpatricktownsend.com

**Miller Law LLC
(Todd L. Johnson)**

M. Miller
L. Fanning
115 South LaSalle Street, Ste. 2910
Chicago, IL 60603
MMiller@MillerLawLLC.com
LFanning@MillerLawLLC.com

**Werner E. Ament &
Lea A. Ament**

3470 North Lake Shore Drive
Apt. 19B
Chicago, IL 60657-2877
W_Amentbbc@att.net

United States Trustee's Office

Patrick S. Layng
Gretchen Silver
219 South Dearborn Street
Suite 873
Chicago, IL 60604
gretchen.silver@usdoj.gov

**Wilmington Trust Company
Trustee Corus Trust VII, X, XIII**

Steven Cimalore
1100 North Market Street
Rodney Square North
Wilmington, DE 19890-1615
sscimalore@wilmingtontrust.com

US Bank NA
Trustee Corus Trust I, III, V
James H. Byrnes
Corp. Trust Div., 3rd Floor
1 Federal Street
Boston, MA 02110
James.byrnes@usbank.com

FTI Consulting Inc.
Samuel Star
3 Times Square, 9th Floor
New York, NY 10036
samuel.star@fticonsulting.com

Atty General of the United States
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Department of the Treasury – IRS
Renita Cannon, IRS BK Specialist
PO Box 21126
Philadelphia, PA 19114

FDIC
Greg Watson, Res & Closings Mgr
Div. of Resolutions and Receiverships
300 South Riverside Pl., Ste. 1800
Chicago, IL 60606
gwatson@fdic.gov

FDIC
James Vordtriede
1601 Bryan St., 17th Floor
Dallas, TX 75201
jvordtriede@fdic.gov

Wells Fargo Bank NA
Trustee Corus Trust XII
James R. Lewis
45 Broadway, 17th Floor
New York, NY 10006
james.r.lewis@wellsfargo.com

BNY Mellon
J. Chris Matthews
601 Travis, 16th Floor
Houston, TX 77002
j.chris.matthews@bnymellon.com

Cohen & Company
Peter Addei
Cira Centre
2929 Arch St., 17th Floor
Philadelphia, PA 19104
paddei@cohenandcompany.com

Corus Financial
John M. Decker
Corus Financial Corporation
32 Broadway Suite 1104
New York, NY 10004

FDIC
Timothy E. Divis
Regional Counsel
300 South Riverside Pl., Ste. 1700
Chicago, IL 60606
tdivis@fdic.gov

FDIC
Richard Gill
Virginia Square, L Wm. Seideman Ctr.
3501 Fairfax Dr.
Arlington, VA 22226
rgill@fdic.gov

Fortress Investment Group
(Alesco Preferred Funding X-XVII)
Morgan J. McClure
ATP Management LLC
1345 Avenue of the Americas, 46th Floor
New York, NY 10105
mmcclure@fortress.com

Bloomberg
Debt Collector Marie Ferguson
Vengroff Williams & Associates Inc.
PO Box 4155
Sarasota, FL 34230-4155

Flora Boemi
1100 Pembridge Dr. Apt. 127
Lake Forest, IL 60045
aboemi@internationalfa.com

Mayer Brown
Michael Gill
71 S. Wacker Drive
Chicago, IL 60606
mgill@mayerbrown.com

Regus Management Group LLC
Sheva Tennyson
Sylvia Wenzel
10 South Riverside Plaza, Ste. 1800
Chicago, IL 60606
sheva.tennyson@regus.com
sylvia.wenzel@regus.com

Illinois Department of Employment Sec.
Benefit Payment Control Division
PO Box 4385
Chicago, IL 60680
joseph.mueller@illinois.gov

IL Student Assistance Commission
Bankruptcy Department
1755 Lake Cook Road
Deerfield, IL 60015
collegezone@isac.org

BNY Mellon
Valerie Nuhfer
625 William Penn Place
Pittsburgh, PA 15259-0001
valerielynn.nuhfer@bnymellon.com

Illinois Department of Revenue
Bankruptcy Section, Level 7-425
100 West Randolph St.
Chicago, IL 60101
John.mccaffrey@illinois.gov

Potter Anderson & Corroon, LLP
(Wells Fargo De Tr. Co. TR XII)
Jessica M. Willey
1313 North Market Street
Wilmington, DE 19801
jwilley@potteranderson.com

Securities and Exchange Commission
Michael Berman
100 F Street NE
Washington, DC 20549

Shipman And Goodwin
(US Bank NA Tr. I, III, V)
Marie Pollio
Ira Goldman
One Constitution Plaza
Hartford, CT. 06103-1919
mpollio@goodwin.com
lgoldman@goodwin.com

Trapeza Capital Management LLC

Carolyn R. Thagard
15 Alden Lane
Birmingham, AL 35213
cthagard@trapeza.com

Environmental Protection Agency

Richard L. Nagle
Bankruptcy Contact
US EPA Region 5 Mail Code C-14J
Chicago, IL 60604
nagle.richard@epa.gov

StoneCastle Partners LLC

Ricardo Vilorio
120 W. 45th Street, 14th Floor
New York, NY 10036
RViloria@StoneCastlePartners.com

**Federal Deposit Insurance Corporation
Legal Division**

Kathryn R. Norcross, Senior Counsel
Nicholas Katsonis, Counsel
3501 Fairfax Drive, VS-D-7092
Arlington, Virginia 22226

DLA Piper LLP (US)

Alan P. Solow
Oksana Koltko
203 North LaSalle Street, Suite 1900
Chicago, IL 60601
(312) 368-4000
alan.solow@dlapiper.com
oksana.koltko@dlapiper.com

Date: August 9, 2012

Respectfully submitted,

/s/ Micah E. Marcus

John F. Hartmann, P.C. (ARDC No. 6195482)

Micah E. Marcus (ARDC No. 6257569)

Eric A. Larson (ARDC No. 63000298)

KIRKLAND & ELLIS LLP

300 North LaSalle Street

Chicago, IL 60654

Tel: (312) 862-2000

Fax: (312) 862-2200

Counsel to the Reorganized Debtor