

Bill Cash

From: Jim Butler <jim@butlerwooten.com>
Sent: Tuesday, June 30, 2020 18:38
To: jwirt@wirtlawfirm.com
Cc: 'Allen, M. Laughlin'; 'Logan T. Matthews'; 'Sara Anne Ford'; 'R. Ashby Pate'; 'Nathanson, Paul J.'; pcwirt@wirtlawfirm.com; Bill Cash; Matt Schultz; Virginia Buchanan; pbates@philipbates.net; Ramsey Prather; 'Haynes, Antonio M.'; chris.riley@alston.com; 'Barber, Kathryn M.'; 'Rottmann, Emily Y.'; 'Haas, Cheryl L.'; 'Rhymes, Theresa J.'
Subject: Re: Sport & Wheat CPA PA v. ServisFirst Bank - Truist's Initial Disclosures

CAUTION: This email message is **EXTERNAL**.

How could we possibly know whether “what [you] are proposing is acceptable “ without seeing what it is?

You’re just going through the motions of conferring without actually making any real attempt to do so, all in an effort to make this litigation as expensive as possible for defendants.

Please desist. If you want some kind of PO, send us what you want. Then we can consider it and confer.

Jim Butler

Jim Butler

From: jwirt@wirtlawfirm.com
Sent: Tuesday, June 30, 2020 6:15 PM
To: 'Jim Butler'
Cc: 'Allen, M. Laughlin'; 'Logan T. Matthews'; 'Sara Anne Ford'; 'R. Ashby Pate'; 'Nathanson, Paul J.'; pcwirt@wirtlawfirm.com; 'Bill Cash'; mschultz@levinlaw.com; vbuchanan@levinlaw.com; pbates@philipbates.net; 'Ramsey Prather'; 'Haynes, Antonio M.'; chris.riley@alston.com; 'Barber, Kathryn M.'; 'Rottmann, Emily Y.'; 'Haas, Cheryl L.'; 'Rhymes, Theresa J.'
Subject: RE: Sport & Wheat CPA PA v. ServisFirst Bank - Truist's Initial Disclosures

Jim:

I don’t understand why you continue to claim that Synovus has no idea who “Borrower C” is in the amended complaint. While I certainly appreciate that Synovus did 20,000 PPP loans, how many PPP loans did Synovus do for \$163,303 for a medical group in Pensacola?

The Accountant/Client privilege (which is the client’s right to assert) in Fla. Stat. § 90.5055 is a legitimate concern that needs to be addressed.

The point of the meet and confer I requested is to determine the scope of the protective order so we can file, hopefully, an agreed motion, but if not, there is still the duty to confer before we file a motion. I am not aware of any requirement under the local rules that requires me to send you a formal draft of a motion as a condition for conferring and I don’t plan to do that busywork only to discover that what we are proposing is unacceptable and I have to go back to the drawing board.

The motion we are intending to file would simply provide that S&W could designate information as confidential under the Accountant/Client privilege and if so designated, that information could not be disclosed by any of the parties to the action and that the court would oversee any violations of the order.

Earlier today I asked whether a 10 am call tomorrow works for a meet and confer, and I am again asking whether that time is convenient. If so, I will circulate a call-in number.

Thank you.

Best regards,

John Wirt

From: Jim Butler <jim@butlerwooten.com>

Sent: Tuesday, June 30, 2020 8:14 AM

To: jwirt@wirtlawfirm.com

Cc: Allen, M. Laughlin <MAllen@mcguirewoods.com>; Logan T. Matthews <lmatthews@lightfootlaw.com>; Sara Anne Ford <sford@lightfootlaw.com>; R. Ashby Pate <apate@lightfootlaw.com>; Nathanson, Paul J. <paul.nathanson@davispolk.com>; pcwirt@wirtlawfirm.com; Bill Cash <bcash@levinlaw.com>; mschultz@levinlaw.com; vbuchanan@levinlaw.com; pbates@philipbates.net; Ramsey Prather <Ramsey@butlerwooten.com>; Haynes, Antonio M. <antonio.haynes@davispolk.com>; chris.riley@alston.com; Barber, Kathryn M. <KBarber@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Haas, Cheryl L. <CHaas@mcguirewoods.com>; Rhymes, Theresa J. <trhymes@mcguirewoods.com>

Subject: Re: Sport & Wheat CPA PA v. ServisFirst Bank - Truist's Initial Disclosures

What are we to meet & confer about, specifically?

I presume about a "protective order" S&W "intends to seek." If that is correct, please send to us the document you propose to ask the Court to enter. We need to review the terms stated in that, first, before we can confer about its terms. We need to review the terms because both your initial disclosures and your email below are unclear as to your intent.

Depending on the specifics, it may be that a meet & confer is unnecessary. You cannot prove any agency existed, and thus cannot prove your case, while concealing the names of the principals for whom S&W supposedly acted as "agents." Similarly, since even if an "agent" was entitled to a fee, the prerequisite for such a claim is proof the principal actually got the PPP loan, but if you won't disclose the name of the supposed principals you cannot prove that prerequisite.

Of course if it is the current position of plaintiffs' counsel that they won't disclose the names of the alleged principals, that is the exact opposite of the position your co-counsel stipulated to when we had a meet & confer in late May.

If that is your refined position, please dismiss the lawsuit you have filed with prejudice.

If not, then send the actual document you intend to ask the Court to enter, so that we have something to talk about at a meet & confer.

Jim Butler

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On Jun 30, 2020, at 12:54 AM, "jwirt@wirtlawfirm.com" <jwirt@wirtlawfirm.com> wrote:

Counsel:

Please find attached the initial disclosures for plaintiff Sport & Wheat CPA PA.

In light of the accountant-client privilege (Fla. Stat. § 90.5055), S&W intends to seek a protective order under Rule 26(c) regarding the disclosure of the names and confidential banking and financial information of the borrowers who received PPP loans, including, without limitation, the borrowers' average monthly payroll and the amounts of the PPP loans funded.

Please let me know if you are available for a meet and confer at 4:00 pm CT tomorrow or whatever other time is convenient for you.

Thank you.

Best,

John Wirt
847-323-4082

From: Allen, M. Laughlin <MIAllen@mcguirewoods.com>

Sent: Monday, June 29, 2020 5:24 PM

To: Logan T. Matthews <lmatthews@lightfootlaw.com>; Sara Anne Ford <sford@lightfootlaw.com>; R. Ashby Pate <apate@lightfootlaw.com>; jwirt@wirtlawfirm.com; jim@butlerwooten.com; Nathanson, Paul J. <paul.nathanson@davispolk.com>; pcwirt@wirtlawfirm.com; Bill Cash <bcash@levinlaw.com>; mschultz@levinlaw.com; vbuchanan@levinlaw.com; pbates@philipbates.net; ramsey@butlerwooten.com; Haynes, Antonio M. <antonio.haynes@davispolk.com>; chris.riley@alston.com

Cc: Barber, Kathryn M. <KBarber@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Haas, Cheryl L. <CHaas@mcguirewoods.com>; Rhymes, Theresa J.

[<trhymes@mcguirewoods.com>](mailto:trhymes@mcguirewoods.com)

Subject: Sport & Wheat CPA PA v. ServisFirst Bank - Truist's Initial Disclosures

Counselors,

On behalf of Truist Bank, please see the attached Initial Disclosures in connection with the above referenced case, which were also sent today by U.S. Mail.

Thank you,

Laughlin

M. Laughlin Allen

Associate

McGuireWoods LLP

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