

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

PRIME ALLIANCE BANK, INC.,
a Utah banking corporation;
and SERTANT CAPITAL, LLC,
a Delaware limited liability company,

Case No. 1:23-cv-10564-LJM-PTM
Hon. Laurie J. Michelson

Plaintiffs

v

THE GREAT LAKES TISSUE COMPANY,
a Michigan corporation,

Defendant.

DAVID L. POWERS (P39110)
Counsel for Plaintiffs
SMITH, MARTIN, POWERS & KNIER, PC
900 Washington Ave.,
P.O. Box 219
Bay City, MI 48707-0219
Tel: (989) 892-3924
dpowers@smpklaw.com

ROBERT S. MCWHORTER (P49215)
Counsel for Plaintiffs
BUCHALTER, A PROFESSIONAL CORPORATION
500 Capitol Mall, Ste. 1900
Sacramento, California 95762
Tel: (916) 899-1099
rmcwhorter@buchalter.com

**STIPULATION AND ORDER CONTINUING HEARING ON PLAINTIFFS’
VERIFIED MOTION FOR POSSESSION**

Plaintiffs, Prime Alliance Bank, Inc., and Sertant Capital, LLC (collectively, “Plaintiffs”) and Defendant, The Great Lakes Tissue Company (“Defendant”) stipulate and agree as follows:

1. On March 31, 2023, Plaintiffs filed a Verified Motion for Possession (“Possession Motion”). (ECF No. 19.)
2. On April 12, 2023, this Court entered a Temporary Restraining Order pending final adjudication of the Possession Motion. (ECF No. 24.)

3. On April 17, 2023, this Court scheduled an in-person hearing on the Possession Motion for June 12, 2023 at 10:00 a.m. (EST) and directed the Parties to file supplemental briefs by June 5, 2023. The Court continued the effect of the Temporary Restraining Order (ECF No. 24) through June 12, 2023, or until this Court ordered otherwise.

4. On May 1, 2023, this Court entered an order setting a Case Management and Scheduling Conference (the “Scheduling Conference”) for June 12, 2023, at 10:00 a.m. (ECF No. 33).

5. Since May 1, 2023, the Parties have diligently conducted discovery to fully present their case to the Court. Plaintiffs served Defendant with a deposition notice under Rule 30(b)(6) of the Federal Rules of Civil Procedure. In response, Defendant designated Ken Schlueben and Donald Swenson to testify. On May 25, 2023, Plaintiffs conducted Mr. Schlueben’s deposition and began Mr. Swenson’s deposition, but did not complete it. The Parties are working on rescheduling Mr. Swenson’s deposition but will likely be unable to complete it before June 12, 2023.

6. Plaintiffs served Defendant’s former CEO/President, Kip Boie, with subpoenas requesting documents and scheduling his deposition for June 1, 2023. Mr. Boie produced documents on May 24, 2023. However, Plaintiffs could not take Mr. Boie’s deposition on June 1, 2023, because their counsel, Robert McWhorter, was ill.

7. The Parties request a continuance of the filing of a supplemental brief, the hearing on the Possession Motion, and the Status Conference for at least thirty (30) days, preferably the week of July 17, 2023. A continuance will allow the Parties to secure the indispensable testimony of Mr. Swenson and Mr. Boie but will also ensure that this Court is presented with a complete picture of the matter at hand. A continuance will not prejudice either Party. The interest of justice is best served when the Parties have ample time and opportunity to prepare and present their cases fully and fairly. The Parties believe the additional time requested will enable them to do just that. Finally, a continuance will allow the Parties additional time to explore a resolution of

the Possession Motion and/or the case.

8. Continuance of the Status Conference is warranted because Plaintiffs may need to file an amended complaint based on evidence discovered thus far, which will require adding additional parties and causes of action.

9. The Parties agree that the stipulated Temporary Restraining Order (ECF No. 24) will remain in effect through the continued hearing date or until this Court orders otherwise, except that the temporary restraining order shall be modified as follows:

NOW, THEREFORE, IT IS HEREBY ORDERED
THAT The Great Lakes Tissue Company and its agents, representatives, employees, officers, directors, shareholders, and other persons acting on its behalf, including Tissue Depot, Inc. or its agents, representatives, employees, officers, directors, shareholders, shall refrain from damaging, destroying, concealing, disposing of, moving, or using the items listed on Exhibit 1 (collectively, "Equipment") so as to substantially impair its value pending this Court's final ruling on the Motion. The Equipment shall not be moved or relocated from Great Lakes Tissue Company's office at 437 S Main St, Cheboygan, Michigan 49721.

Counsel for Defendant is authorized to consent to this modification on behalf of Defendant and Tissue Depot, Inc. and will accept service of the order on behalf of Tissue Depot, Inc.

STIPULATED AND AGREED TO BY:

BUCHALTER, A PROFESSIONAL
CORPORATION

/s/ Robert S. McWhorter
Robert S. McWhorter (P49215)
Counsel for Plaintiffs
500 Capitol Mall, Ste. 1900
Sacramento, California 95814
(916) 945-5188
rmcwhorter@buchalter.com

HANSEN REYNOLDS, LLC

/s/ Timothy Hansen per 6/1/23 consent
Timothy M. Hansen
Counsel for Defendant
301 N. Broadway, Ste 400
Milwaukee, Wisconsin 53202
(414) 273-8473
thansen@hansenreynolds.com

ORDER

This matter came before this Court based on the foregoing Stipulation. This Court finds that good cause exists for the entry of this Order.

IT IS HEREBY ORDERED THAT:

1. The hearing on Plaintiffs' Verified Motion for Possession (ECF No. 19.) is continued from June 12, 2023 to July 21, 2023 at 10:00 a.m. (EST). The Parties may file a supplemental brief five calendar days prior to this hearing date.

2. The stipulated Temporary Restraining Order (ECF No. 24) will remain in effect through the continued hearing date, or until this Court orders otherwise, as modified below:

NOW, THEREFORE, IT IS HEREBY ORDERED THAT The Great Lakes Tissue Company and its agents, representatives, employees, officers, directors, shareholders, and other persons acting on its behalf, including Tissue Depot, Inc. or its agents, representatives, employees, officers, directors, shareholders, shall refrain from damaging, destroying, concealing, disposing of, moving, or using the items listed on Exhibit 1 (collectively, "Equipment") so as to substantially impair its value pending this Court's final ruling on the Motion. The Equipment shall not be moved or relocated from Great Lakes Tissue Company's office at 437 S Main St, Cheboygan, Michigan 49721.

3. The Case Management and Scheduling Conference (ECF No. 33) is continued from June 12, 2023, to July 21, 2023, at 10:00 a.m. (EST).

Dated: June 2, 2023

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

Equipment Description		Serial No.
1.	1969 Babcock & Wilcox Gas Fired 60,000 BTU Boiler	M98133M
2.	2013 Alfa Laval Heat Exchanger	30115-70081
3.	2013 Alfa Laval CB400-86H Heat Exchanger	42787870
4.	Appleton 60"x72" Core Cutter	n/a
5.	Wulftec WLP-150 Automatic Stretch Wrap Machine	0700-6317
6.	Orion SW44-12 Stretch Wrapper	7117540
7.	Black Clawson Poly Re-Claim & Stock Prep System	95-H-P-3692
8.	Beloit/Proctor & Gamble 128" Tissue Paper Machine and all accessories	n/a
9.	Lot of Laboratory Equipment and all accessories	n/a
10.	1985 Atlas Copco ZR-3 200 HP Packaged Rotary Screw Air Compressor	ARP-1200-8
11.	1985 Atlas Copco ZR-3 200 HP Packaged Rotary Screw Air Compressor	ARP-490886
12.	1978 Zurn R110A Refrigerated Air Dryer	R-9510
13.	2014 Ingersoll Rand R110 Nirvana SVD 150 Air Compressor	VN1505u13175
14.	Knowlton Core Machine	n/a
15.	1997 Perini 200G Core Machine and Back Stand	09056; 09057
16.	1998 Perini 716B 106" Toilet Roll Rewinder	09719; 19718
17.	2020 Baosuo YD-PL400C-2900 12" Bathroom Tissue Rewinder Line and all accessories	19S13005Fs
18.	1999 Perini 702G 106" JRT Rewinder and all accessories	40533
19.	1997 Perini 702G 106" JRT Rewinder Line and all accessories	8897
20.	Hobema 14-H 13" Napkin Folder	446
21.	Lot of Press, Gears, Valves, Pumps, Motors, Etc. including all components and ancillary items	n/a
22.	Clausing Colchester 17" Horizontal lathe	2312
23.	Bridgeport Series Vertical Drill	J202453

	Equipment Description	Serial No.
24.	Hendey Horizontal Lathe 14 x 42	121
25.	Cincinnati Milling Machine	E506J
26.	Cincinnati Bickford Drill	122
27.	Boyd & Emmes Radial Engine Horizontal Lathe	n/a
28.	Enerpac Hydraulic Press	n/a
29.	Grob NS24 Band Saw	3508
30.	Clausing Vertical Drill Press	104435
31.	Bradford Grinder	86
32.	Clausing Vertical Drill Press	511876
33.	Abrasive Machine Tool Sander	n/a
34.	Miller Bobcat 225 NT Welding Set	n/a
35.	Miller Trailblazer 30 Z Welding Set	n/a
36.	Hobart Mega Arc 300 Welding Set	n/a
37.	Misc. Hand Tools and Cabinets	n/a
38.	Rigid 802 Pipe Threader	n/a
39.	Wells Metal Band Saw	14980
40.	Miller XMT 350 CC/CV Welding Set	n/a
41.	Modern C6251x1500 Horizontal Lathe – Age 2003	n/a
42.	Lincoln Wirematic 255 Welding Set, all components and ancillary items	n/a
43.	Caterpillar 99F – 3,500 lbs. Cap.	AT81C-00357
44.	Caterpillar 99H – 3,500 lbs. Cap.	AT81C-00944
45.	Caterpillar V-80	932200-14A
46.	Caterpillar #11 Roll Grab – 7,000 lbs. Cap.	AT8701785
47.	Caterpillar #12 Roll Grab – 7,000 lbs. Cap.	AT8701784
48.	Genie #1 Scissor lift	76192
49.	Genie #2 Scissor lift	65851

Equipment Description		Serial No.
50.	Genie #3 Articulating boom	Z34N-3953
51.	Genie AWP – 300 lbs. Cap.	3892-1317
52.	Halla #11 – 4,400 lbs. Cap.	1449K
53.	Hyster S-150 – 16,000 lbs. Cap.	A24D1857P
54.	Hyster 50 – 4,800 lbs. Cap.	F187V13647F
55.	JCB 506C – 6,000 lbs. Cap	585635
56.	JCB 506C – 6,000 lbs. Cap.	JCB5CAJLC6 1184611
57.	Kubota SSV65	13738
58.	Linde #5 Roll Grab – 3,700 lbs. Cap.	A11313G001 84
59.	Linde #3 Roll Grab – 3,700 lbs. Cap.	A11313G001 85
60.	Linde #24 – 4,500 lbs. Cap.	A11319J0022 4
61.	Linde #68 – 4,500 lbs. Cap.	A11319J0016 8
62.	Nissan #8 – 3,500 lbs. Cap.	23108
63.	Skid Steer L230	wbm432589
64.	Terex All Terrain lift – 6,000 lbs. Cap.	TH06O6B- 6256
65.	Toyota #4 Roll Grab – 4,400 lbs. Cap.	84988
66.	Toyota #1 – 7,700 lbs. Cap.	77656
67.	Toyota #30 – 7,250 lbs. Cap.	63678