

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

ALL-WAYS LOGISTICS, INC.,	*	
	*	
Plaintiff,	*	
vs.	*	No. 3:06cv0087 SWW
	*	
	*	
USA TRUCK, INC. and	*	
USA LOGISTICS,	*	
	*	
Defendants.	*	

ORDER

Previously, the Court granted All-Ways Logistics, Inc.’s (“All-Ways”) motion to renew and increase supersedeas bond and ordered USA Truck, Inc. and USA Logistics (collectively, “USA”) to renew and increase security to guarantee the payment of all sums due up to \$5,000,000. The Court later granted USA’s supplemental motion for stay of execution on judgment and approval of supersedeas bond, which increased the original letter of credit amount to \$5,000,000 and extended the letter of credit by one year, from August 20, 2008 to August 20, 2009.

Now before the Court is All-Ways’ motion [doc.#229] to renew and increase supersedeas bond to \$5,500,000. USA objects, noting that it has already extended the letter of credit by one year (to August 20, 2010),¹ that the United States Court of Appeals for the Eighth Circuit should issue an opinion on its appeal at any time now, and that any interest-related overrun will be

¹ USA has filed a motion [doc.#231] to supplement bond and to continue stay of execution on judgment. The motion to supplement is granted to the extent it only seeks to extend the letter of credit by one year (which has already taken place) and the Court additionally grants the motion to continue stay of execution on the amended judgment and this Court’s December 2007 postjudgment order pending the United States Court of Appeals for the Eighth Circuit’s resolution of USA’s appeal. Although a copy of the original amendment to the letter of credit is attached to USA’s motion to supplement bond and to continue stay of execution on judgment, USA subsequently provided the Court with the original amendment to the letter of credit. That original amendment is to be maintained in the Clerk’s office.

negligible to a company as financially strong as USA. However, there is no real dispute that the total judgment will exceed \$5,000,000 on or about August 29, 2009, and a supersedeas bond must normally be in a sum sufficient to pay the judgment and costs, interest, and damages for delay. *Church & Dwight Co., Inc. v. Abbott Laboratories*, 2009 WL 2230941, at *17 (D.N.J. 2009) (internal quotation marks omitted). This case does not present circumstances that warrant departure from the usual rule that the amount of the bond should match the amount of the judgment, *see Farm Bureau Life Ins. Co. v. American Nat. Ins. Co.*, 2009 WL 961171, at *3 (D.Utah 2009), and based on USA's own admissions, requiring USA to post a bond sufficient to guarantee the payment of all sums due up to \$5,500,000 would not financially compromise the company. *See id.* Accordingly, All-Ways' motion to renew and increase supersedeas bond to \$5,500,000 is hereby granted.

IT IS SO ORDERED this 26th day of August 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

AUG 20 2009

BANK OF AMERICA - CONFIDENTIAL

PAGE: 1

DATE: AUGUST 19, 2009

**U.S. DISTRICT COURT
E. DIST. OF ARKANSAS**

AMENDMENT TO IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: 3089580

AMENDMENT NUMBER 2

ISSUING BANK
BANK OF AMERICA, N.A.
1000 W. TEMPLE STREET
7TH FLOOR, CA9-705-07-05
LOS ANGELES, CA 90012-1514

BENEFICIARY
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
A149 RICHARD SHEPARD ARNOLD
COURTHOUSE, 600 W. CAPITOL AVENUE

APPLICANT
USA TRUCK, INC.
3200 INDUSTRIAL PARK RD
VAN BUREN, AR 72956

LITTLE ROCK, AR 72201

RE: SECURITIZATION FOR SUPERSEDEAS
BOND IN CASE NO 3:06CV0087 SWW

THIS AMENDMENT IS TO BE CONSIDERED AN INTEGRAL PART OF THE ABOVE CREDIT
AND MUST BE ATTACHED THERETO.

THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS:

THE EXPIRATION DATE IS AMENDED TO: AUGUST 20, 2010.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

IF YOU REQUIRE ANY ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THIS
AMENDMENT, PLEASE CALL 1-800-541-6096 OPT 1.



AUTHORIZED SIGNATURE

THIS DOCUMENT CONSISTS OF 1 PAGE(S).
Bolivar Carrillo

ORIGINAL