

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

BMO HARRIS BANK N.A.

PLAINTIFF

v.

Case No. 6:16-cv-6118

ALTON BEAN TRUCKING, INC.  
and GARY BEAN

DEFENDANTS

**ORDER**

Before the Court is Plaintiff BMO Harris Bank N.A.'s ("Plaintiff") to Reopen Case. (ECF No. 12). Defendants Alton Bean Trucking, Inc. ("ABT") and Gary Bean ("Mr. Bean") have not responded to the motion, and the time to do so has passed. *See* Local Rule 7.2(b). The Court finds the matter ripe for consideration.

From 2011 through 2013, ABT entered into various loan agreements for the purchase of tractors and trailers. Mr. Bean guaranteed the past, present, and future performance of ABT under the loan agreements, including the payment of all amounts owed. The loan agreements identified certain tractors and trailers as collateral and granted a first-priority security interest in the collateral. On December 1, 2015, Plaintiff was assigned all rights, titles, and interests in and to the accounts with ABT, including the loan agreements, the guarantees, and the first-priority security interest in the collateral.

On November 23, 2016, Plaintiff filed this lawsuit against Defendants, alleging that they were in default under the agreements and failed to pay the amounts due thereunder. Plaintiff sought replevin, specific performance, injunctive relief, and breach-of-contract damages. On April 4, 2017, the Clerk of Court entered default against ABT and Bean. On April 11, 2017, the Court entered default judgment against Defendants, ordering *inter alia* that Defendants must deliver all

retained collateral to Plaintiff and, if not, the U.S. Marshall or appropriate sheriff should assist Plaintiff in gaining possession of the retained collateral.

On February 13, 2019, Plaintiff filed the instant motion, seeking to reopen this case. Plaintiff states that Defendants have been served with the Court's November 23, 2016 judgment but have failed and refused to comply with its directives. Specifically, Plaintiff states that Defendants have not delivered the retained collateral to Plaintiff and refuse to disclose its location. Plaintiffs state further that the assistance of local law enforcement or the U.S. Marshal is inadequate because the retained collateral is mobile, and Defendants continue to use it in interstate commerce. Thus, Plaintiff asks to reopen this case to file a motion to hold Defendants in contempt.

Upon consideration, the Court finds that good cause for the motion has been shown. Accordingly, Plaintiff's motion to reopen case (ECF No. 20) is hereby **GRANTED**.

**IT IS SO ORDERED**, this 4th day of March, 2019.

/s/ Susan O. Hickey  
Susan O. Hickey  
Chief United States District Judge