

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DIESEL SPECIALISTS, L.L.C., ET AL. CIVIL ACTION
VERSUS NO. 09-2843
MOHAWK TRAVELER M/V, ET AL. SECTION "N" (5)

ORDER AND REASONS

Before the Court is the "Motion for Issuance of Warrant of Arrest, to Appoint substitute Custodian & to permit Movement of the Vessel" (Rec. Doc. 169), filed by Mississippi River Bank ("MRB"). This motion is opposed by Defendants Mohawk Traveler Transportation, LLC and Fitch Transportation, Inc. (Collectively, "Mohawk") (See Rec. Doc. 173). After considering all the memoranda filed by the parties (including Rec. Docs. 181, 183, and 187) and the applicable law,

IT IS ORDERED that the "Motion for Issuance of Warrant of Arrest, to Appoint substitute Custodian & to permit Movement of the Vessel" (Rec. Doc. 169) is **DENIED**. On the showing made, this motion is denied based substantially on Mohawk's argument that the alleged default upon which MRB now seeks to arrest the vessel is separate and apart from the default as pled in May of 2010.

Indeed, the note upon which the prior arrest was based has been paid off and replaced by new loan #50404020-005. This Motion to Arrest is no substitute for amendment of the pleadings to properly set forth the grounds upon which the arrest is sought. In short, MRB may not revive its Complaint in Intervention by filing the instant motion to arrest, attempting to have its current arrest somehow relate back to what it pled in May of 2010, when those grounds were mooted by the restructuring of the debt and execution of an entirely new promissory note.

IT IS FURTHER ORDERED that the parties should immediately notify the Court as to whether this ruling moots any of the other motions which are currently pending in this matter.

New Orleans, Louisiana, this 28th day of July 2011.



KURT D. ENGELHARDT
United States District Judge