

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

INFORMATION TECHNOLOGY,	)	
INC.,	)	
	)	
Plaintiff,	)	4:08CV3207
	)	
V.	)	
	)	
BANKEAST,	)	<b>ORDER</b>
	)	
Defendant.	)	
_____	)	

This matter is before the court on Defendant BankEast’s motion to dismiss or, in the alternative, stay in light of a Tennessee state court action ([filing 11](#)). Specifically, BankEast requests that this court abstain from exercising its jurisdiction on account of a Tennessee state court action involving the same contracts that are at issue in this suit.

Since the filing of BankEast’s motion to dismiss or stay ([filing 11](#)), the Tennessee state court proceeding has been removed to the United States District Court for the Eastern District of Tennessee. *BankEast v. Information Technology, Inc.*, No. 3:08-cv-476, CM/ECF Filing 1 (E.D. Tenn. 2008). Currently pending before the Tennessee federal court in Case No. 3:08-cv-476 is a motion by BankEast to remand the action to Tennessee state court. *Id.* at CM/ECF Filing 8. Due to the pendency of the motion to remand, this court will defer ruling on BankEast’s motion to dismiss or stay at this time.

IT IS ORDERED:

1. This court will defer ruling on BankEast’s motion to dismiss or stay

([filing 11](#)) until the United States District Court for the Eastern District of Tennessee rules on BankEast's motion to remand in Case No. 3:08-cv-476, or until further order of this court;

2. Counsel for Plaintiff Information Technology, Inc. ("ITI") and counsel for BankEast shall jointly notify this court of the United States District Court for the Eastern District of Tennessee's ruling on BankEast's motion to remand within ten (10) days following said ruling and provide a copy of the Tennessee federal court's order on the motion to remand to this court;
3. Counsel for ITI and BankEast shall jointly notify the United States District Court for the Eastern District of Tennessee of the pendency of this action and, specifically, the pendency of the defendant's motion to dismiss or stay, and this court's decision to delay ruling on said motion until that court has ruled on BankEast's motion to remand;
4. Within thirty (30) days of this order, counsel for ITI and counsel for BankEast shall jointly file with this court an affidavit averring as to compliance with paragraph 3 of this order.

February 3, 2009.

BY THE COURT:  
*s/Richard G. Kopf*  
United States District Judge