

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN C. KRAEMER,

Plaintiff,

v.

HERMAN E. HOFFMAN, JR.,

Defendant.

ORDER

13-cv-860-wmc

Before the court is defendant Herman E. Hoffman, Jr.'s second emergency motion for preliminary injunction to bar the sale of cattle. (Dkt. #35.) The court granted in part and denied in part the first motion, allowing an April 3, 2014, sale to go forward, but requiring plaintiff John C. Kraemer to place all but \$60,000 from the sale in the court to be held in escrow. In the present motion, defendant represents that "[m]any of the issues presented previously are being reasserted hereby as the outcome of the previous sale has skewed some of the facts, the animals involved in this sale are of a different breed, and, if for no other purpose, to protect the appellate rights of the Defendant, so as to not find him in acquiescence of this second noticed sale." (Def.'s Br. (dk. #36) 1.) This second, proposed sale of the remaining 114 heads of cattle is scheduled for Thursday, May 8, 2014.

Today, May 6, 2014, the court held a telephonic hearing on the motion at which plaintiff appeared personally and by attorneys Richard Radcliffe and Devon Baumbach; and defendant appeared by attorney Christopher Beck. During the hearing, the court denied defendant's second motion to bar principally for the same reason the court denied

the first: plaintiff is likely to succeed in his argument that he has an executable lien on the cattle at issue and, therefore, has a right to foreclose on that lien pursuant to Wis. Stat. § 779.48 and Article 9 of the U.C.C. Consistent with its treatment of the first motion, the court, however, will require plaintiff to deposit all proceeds in the sale with the court's registry, except plaintiff may retain \$30,000, roughly representing the \$20,000 defendant appears to concede he owes plaintiff for care of calves and \$10,000 for care of the remaining 114 cattle in plaintiff's possession from the beginning of April until the sale contemplated for Thursday.

During the hearing, the court also ordered defendant to serve his Rule 26(a) disclosures on or before Monday, May 12, 2014. **No further extensions will be permitted, and defendant will be subject to sanctions for failing to comply with this order.** Also, plaintiff is granted leave to file an amended complaint by May 19, 2014. All other deadlines in the preliminary pretrial conference order (dkt. #5) remain firm.

ORDER

IT IS ORDERED that:

- 1) defendant Herman E. Hoffman, Jr.'s second motion for preliminary injunction (dkt. #35) is DENIED, except that plaintiff may receive only up to the sum of \$30,000 from the proceeds of the contemplated sale of all cattle remaining in his possession with any proceeds above that sum to be deposited into this court as follows: the check shall be made payable to the Clerk of Court and shall have the case number written on the check, as well as noted in the cover letter to the court;
- 2) defendant's Rule 26(a) disclosures are due on or before Monday, May 12, 2014; and

3) plaintiff is granted further leave to amend his complaint on or before Monday, May 19, 2014.

Entered this 6th day of May, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge