

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALYSSON MILLS, IN HER CAPACITY AS
RECEIVER FOR ARTHUR LAMAR
ADAMS AND MADISON TIMBER
PROPERTIES, LLC,

Plaintiffs,

v.

THE UPS STORE, INC.; HERRING
VENTURES, LLC d/b/a/ THE UPS STORE;
AUSTIN ELSER; TAMMIE ELSER;
COURTNEY HERRING; DIANE LOFTON;
CHANDLER WESTOVER; RAWLINGS &
MACINNNIS, PA; TAMMY VINSON; and
JEANNIE CHISHOLM,

Defendants.

Case No. 3:19-cv-364-CWR-FKB

Arising out of Case No. 3:18-cv-252,
*Securities and Exchange Commission v.
Arthur Lamar Adams and Madison Timber
Properties, LLC*

Hon. Carlton W Reeves, District Judge

**THE UPS STORE, INC.'S OPPOSITION TO PLAINTIFF'S MOTION TO EXPITE
CONSIDERATION OF HER MOTION TO QUASH OR, ALTERNATIVELY, FOR A
PROTECTIVE ORDER**

During a June 23, 2021 discovery conference, the Court advised Plaintiff to meet and confer with Defendant The UPS Store, Inc. (“TUPSS, Inc.”) and the other Defendants regarding how the current protective order could be amended to cover non-parties such as those investors in the Madison Timber Ponzi scheme that TUPSS, Inc. subpoenaed. Plaintiff’s counsel agreed to do so. But instead of thereafter engaging in a discussion with counsel, Plaintiff on Monday, June 28, 2021 filed a motion to quash all of TUPSS Inc.’s subpoenas (ECF No. 214), and filed a motion to have that motion to quash heard on an expedited schedule that would make TUPSS, Inc.’s opposition due on Wednesday, June 30. (ECF No. 215.) Plaintiff did not have any communication with TUPSS, Inc. about their plan to move to quash the subpoenas, or their proposed briefing schedule.

Local Uniform Civil Rule 7(b)(8) requires denial of Plaintiff’s request to expedite. It states:

When the motion relates to an urgent or necessitous matter, counsel for the movant must contact the courtroom deputy, or other staff member designated by the judge, and arrange a definite time and place for the motion to be heard. In such cases, counsel for movant must file a written notice to all other parties of the time and place fixed by the court for the hearing and must serve all documents upon other parties. Upon receipt of the motion, the court in its discretion may direct counsel to submit memorandum briefs for the court’s consideration. **Unless a party files a motion for a protective order to limit the scope or quash the taking of a deposition within seven days of the date of the notice of deposition, the motion will not be considered urgent or necessitous.**

TUPSS, Inc. provided notice of the deposition subpoenas it was serving on June 17, 2021, and the first deposition for live testimony is not scheduled to be taken until August 2, 2021. Local Rule 7(b)(8) declares that there is no urgent need to hear Plaintiff’s motion to quash on expedited basis, and requires Plaintiff’s motion to expedite be denied.

For good measure, Plaintiff’s motion violates Rule 7(b)(8) in other ways. Plaintiff did not contact the Court in advance of filing her request to expedite and arrange for a “definite time

and place for the motion to be heard.” And Plaintiff filed a written memorandum of law in support of her motion to quash without first obtaining leave of the Court to do so.

Plaintiff’s request to expedite should be denied. Plaintiff’s Motion can be briefed in accordance with the normal rules that apply to all parties who appear before this Court.

Dated: June 29, 2021

By: s/ Mark R. McDonald
Mark R. McDonald (CA Bar No. 137001)
(*Pro Hac Vice*)
MORRISON & FOERSTER LLP
707 Wilshire Boulevard
Los Angeles, CA 90017
Telephone: 213.892.5200
Facsimile: 213.892.5454
Email: MMcDonald@mofocom

Adam J. Hunt (NY Bar No. 4896213)
(*Pro Hac Vice*)
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: 212.468.8000
Facsimile: 212.468.7900
Email: AdamHunt@mofocom

Reuben V. Anderson, MSB #1587
LaToya C. Merritt, MSB #100054
Mallory K. Bland, MSB #105665
PHELPS DUNBAR, LLP
4270 I-55 North Jackson
Mississippi 39211-6391
Post Office Box 16114
Jackson, Mississippi 39236-6114
Telephone: 601-352-2300
Telecopier: 601-360-9777
Email: Reuben.Anderson@phelps.com
LaToya.Merritt@phelps.com
Mallory.Bland@phelps.com

***Attorneys for Defendant
THE UPS STORE, INC.***

CERTIFICATE OF SERVICE

I, Mark R. McDonald, do hereby certify that I electronically filed the above and foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

Brent B. Barriere
FISHMAN HAYGOOD, LLP
201 St. Charles Avenue, Suite
4600
New Orleans, LA 70170
(504) 586-5253
bbarriere@fishmanhaygood.com

Lilli Evans Bass
BROWN BASS & JETER
PLLC
1755 Lelia Drive, Suite 400
Jackson, MS 39216
(601) 487-8448
bass@bbjlawyers.com

Kristen D. Amond
MILLS & AMOND LLP
650 Poydras Street, Suite
1525
New Orleans, LA 70130
(504) 556-5523
kamond@millsamond.com

***ATTORNEYS FOR
PLAINTIFF***

G. Todd Burwell
Emily Kincses Lindsay
G. TODD BURWELL, PA
618 Crescent Blvd., Ste. 200
Ridgeland, MS 39157
(601) 427-4470
(601) 427-0189 (fax)
tburwell@gtbpa.com
elindsay@gtbpa.com

William Lee Guice, III
RUSHING & GUICE, PLLC
– Biloxi
P.O. Box 1925
Biloxi, MS 39533-1925
1000 Government St., Suite E
Ocean Springs, MS 39564
(228) 374-2313
(228) 875-5987
bguice@rushingguice.com

***ATTORNEYS FOR
RAWLINGS & MACINNIS,
PA, JEANNIE CHISOLM,
AND TAMMY VINSON***

***ATTORNEYS FOR
HERRING VENTURES,
LLC, AUSTIN ELSEN,
CHANDLER WESTOVER,
COURTNEY HERRING,
DIANE LOFTON, AND
TAMMIE ELSEN***

THIS, the 29th day of June, 2021.

s/ Mark R. McDonald

MARK R. MCDONALD