

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

<b>BUCKEYE DIAMOND LOGISTICS, INC.,</b>	)	
	)	
Plaintiff,	)	
	)	Case No. 3:01-CV-00440
	)	
v.	)	
	)	Judge Rice
<b>CHEP USA,</b>	)	
	)	Magistrate Judge Ovington
Defendant.	)	

*MOTION OF INDUSTRIAL REPORTING, INC.  
FOR PURPOSES OF PROTECTING PUBLIC ACCESS TO TRIAL*

Industrial Reporting, Inc., ("IRI") hereby moves to intervene in this action pursuant to Fed. R. Civ. P. 24(b) solely for purposes of protecting the right of public and press access to the trial and to exhibits admitted at trial. Specifically, IRI seeks to intervene to file the attached brief and to participate in any portions of any hearing on this issue that the Court deems permissible. A memorandum in support of this motion is included herewith.

*/s/ Austin P. Wildman*  
Austin P. Wildman (#0031287)  
[apwildman@wildmanschooley.com](mailto:apwildman@wildmanschooley.com)  
Wildman Schooley LLC  
26 East Fourth Street  
London, OH 43140  
Phone 740-852-8383  
Fax 740-852-1699  
Attorney for Industrial Reporting, Inc.

**OF COUNSEL:**  
Daniel A. Carrell, Esq.  
Carrell Rice & Rigsby  
7275 Glen Forest Drive  
Richmond, VA 23226  
Phone 804-285-7900  
Fax 804-285-8925

***Memorandum in Support***

Industrial Reporting, Inc., is the publisher of *Pallet Enterprise* and *Pallet Profile Weekly*, which have reported on the pallet industry nationwide for over 20 years. IRI is a Virginia-based corporation. These publications intend to attend and report on the trial in the above captioned matter, which is of great interest in the pallet community insofar as it is likely to set important precedents with respect to the rights of pallet recyclers related to CHEP USA. IRI has been advised by plaintiff that the Court is currently considering whether any portion of the trial in this matter will be treated as confidential, and has reviewed CHEP USA's Brief on the issue.

While IRI does not have access to the records that are subject of this dispute, it has a well-recognized interest in assuring that no portion of this Court's proceedings should be closed to the press or public. See *Brown & Williamson Tobacco Corp. v FTC* (6<sup>th</sup> Cir. 1983), 710 F2d 1165, 1178-79; 1983-1 CCH Trade Cases ¶ 65460. See also *Miller v Indiana Hosp.* (3<sup>rd</sup> Cir. 1994), 16 F. 3d 549, 1994-1 CCH Trade Cases ¶ 70518; *Rushford v New Yorker Magazine, Inc.* (4<sup>th</sup> Cir. 1988), 846 F. 2d 249, 15 Media L. R. 1437.; *Publicker Industries, Inc. v Cohen* (3<sup>rd</sup> Cir. 1984), 733 F. 2d 1059, 10 Media L R 1777; *In Re Continental Illinois Secur. Litigation* (7<sup>th</sup> Cir. 1984), 732 F2d 1302, 10 Media L R 1593. This Court in *In re Search Warrant* (S.D. Ohio Aug 20, 1996), 1996 WL 1609166, specifically recognized that news media may appropriately intervene to protect the right of access to court proceedings. IRI seeks to intervene solely for

purposes of presenting its views on the request it understands CHEP USA has made to close this trial or seal exhibits, in whole or in part. IRI has no interest in the substantive outcome of this litigation, and seeks to intervene for in the sole interest of submitting the attached Memorandum on the issue of access to the Court. Thus, as in *In re Search Warrant*, “applicants’ claims have a question of law in common with the captioned action, and the intervention will not unduly delay or prejudice the adjudication of the rights of the existing parties.”

For these reasons, IRI submits that its motion to intervene should be granted, and the attached brief deemed filed by the Court. Further, IRI seeks to participate in any portions of any hearing on this issue that the Court deems permissible. IRI’s counsel is available to participate by telephone in the conference the Court has scheduled for 10:00 a.m. on Friday, June 24, 2005 if the Court wishes to hear further regarding this motion to intervene or on the substance of IRI’s arguments for open access. IRI is willing to limit its participation to those portions in which the Court is not discussing its *in camera* review of the documents CHEP claims are confidential.

*/s/ Austin P. Wildman*

Austin P. Wildman (#0031287)  
[apwildman@wildmanschooley.com](mailto:apwildman@wildmanschooley.com)  
Wildman Schooley LLC  
26 East Fourth Street  
London, OH 43140  
Phone 740-852-8383  
Fax 740-852-1699  
Attorney for Industrial Reporting, Inc.

**OF COUNSEL:**  
Daniel A. Carrell, Esq.  
Carrell Rice & Rigsby  
7275 Glen Forest Drive  
Richmond, VA 23226  
Phone 804-285-7900  
Fax 804-285-8925

**CERTIFICATION OF SERVICE**

It is hereby certified that a copy of this Motion was served on June 23, 2005, via the Court's electronic filing system, upon:

James A. Wilson  
Vorys, Sater, Seymour and Pease  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
Counsel for Buckeye Diamond Logistics

John C. McDonald  
Kevin L. Murch  
Schottenstein Zox & Dunn  
250 West Street  
Columbus, OH 43215  
Attorneys for CHEP USA

/s/ Austin P. Wildman  
Austin P. Wildman (#0031287)  
Attorney for Industrial Reporting, Inc.