

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

BUCKEYE DIAMOND LOGISTICS, INC. :  
fka BUCKEYE RECYCLERS, INC. :

Plaintiff, :

Case No. C3-01-440

v. :

Judge Walter Herbert Rice

CHEP USA, a general partnership :

Defendant. :

**PLAINTIFF'S MOTION FOR LEAVE TO FILE**  
**MEMORANDUM IN OPPOSITION TO REMAINING**  
**MOTIONS IN LIMINE OF CHEP USA**

Buckeye Diamond Logistics hereby seeks leave to file a memorandum in opposition to any of the motions in limine CHEP USA has filed on or before March 1, 2004. A memorandum in support of this motion is attached.

\_\_\_\_\_  
s/ James A. Wilson  
James A. Wilson (0030704)  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
(614) 464-5606  
Attorneys for Plaintiff

**MEMORANDUM IN SUPPORT**

In April 2003 CHEP filed nine motions in limine in this matter. In early May 2003, counsel was advised by the Court to delay filing responses to the motions in limine and jury instructions pending the Court's determination of the then pending motions for summary judgment. No new date for filing responses to these original nine motions in limine was set. On January 30, 2004, CHEP filed six more motions in limine. Responses to these motions were due February 23, 2004.<sup>1</sup>

However, on February 20, 2004, the Court directed the parties to identify which motions in limine remain viable in light of intervening rulings of the Court and other events, by letter no later than February 27, 2004. Accordingly, plaintiff requests leave of the Court to file a consolidated memorandum in opposition to those motions in limine remaining viable by March 1, 2004. Such leave will avoid plaintiff having to respond to any motion in limine that is moot and will allow briefing on these motions in limine to be completed several months before the new trial date in this matter, May 24, 2004.

\_\_\_\_\_  
s/ James A. Wilson  
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P.O. Box 1008  
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(614) 464-5606  
Attorneys for Plaintiff

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<sup>1</sup> On February 19, 2004, plaintiff filed a memorandum in opposition to two of these motions, Docket #s 56 and 76. CHEP filed its reply that same date.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this Motion was served on  
February 24, 2004, by electronic delivery or facsimile upon:

John C. McDonald  
Bridgette Roman  
Elaine M Darr  
Schottenstein Zox & Dunn  
250 West Street  
Columbus, OH 43215

s/ James A. Wilson  
James A. Wilson