

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL CIRCUIT, IN AND
FOR ST. LUCIE COUNTY,
FLORIDA

CASE NO. 2012-CA-001461

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR ARGENT
SECURITIES INC., ASSET-BACKED PASS-
THROUGH CERTIFICATES, SERIES 2004-
W11,

Plaintiff,

vs.

THOMAS BELDEN ROLLE, et al.,

Defendants.

MOTION TO DETERMINE CONFIDENTIALITY OF COURT RECORDS

Plaintiff, DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR ARGENT SECURITIES, INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2004-W11, (hereinafter "Deutsche Bank"), by and through its undersigned counsel, hereby files this Motion requesting that the Court require the parties to file all pleadings and related exhibits under seal to the extent such filings address or discuss the parties' pending disputes concerning the production and use of certain privileged and protected documents. In support of said motion, Plaintiff states as follows:

MEMORANDUM OF LAW

Consistent with rule 2.420 of the Florida Rules of Judicial Administration, Deutsche Bank requests that this Court enter an order requiring that all pleadings, motions and exhibits referencing certain privileged and protected material be filed under seal. Fla. R. Jud. Admin. 2.420(c)(9), (e)(1). Though the right of access to judicial records is well established, the public's

right of access is not absolute and “may be overcome by a showing of good cause, which required balancing the asserted right of access against the other party’s interest in keeping the information confidential.” Romero v. Drummond Co., Inc., 480 F.3d 1243, 1246 (11th Cir. 2007); see also Barron v. Fla. Freedom Newspapers, Inc., 531 So. 2d 113 (Fla. 1988). In balancing these interests to determine whether documents should be placed under seal, courts consider:

[W]hether allowing access would impair court functions or harm legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials of public concerns, and the availability of a less onerous alternative to sealing the documents.

Id. Indeed, it goes without saying that “a party’s privacy or proprietary interest in information sometimes overcomes the interest of the public in accessing the information.” Id. Accordingly, consistent documents subject to privilege objections should generally be produced under seal. See Steinger Iscoe & Greene, P.A. v. GEICO Gen. Ins. Co., 103 So. 3d 200, 203 (Fla. 4th DCA 2012); Topp Telecom, Inc. v. Atkins, 763 So. 2d 1197, 1199 (Fla. 4th DCA 2000).

Here, the information proposed to be sealed relates to certain privileged documents inadvertently produced in litigation, which are subject to protection under Florida law. As demonstrated in Plaintiff’s pending motion in limine and to disqualify counsel, the documents were never intended to be shared with third parties and are protected by the attorney-client privileged and attorney work-product protection. Given the nature of these documents and the information contained herein, the Court should grant the motion so as to avoid any further disclosure of Plaintiff’s privileged and protected information. To do otherwise would put Plaintiff at risk of even further distribution of its privileged or protected information. Indeed, as evidenced by opposing counsel’s characterization of several of the underlying documents to the

press any further disclosure by the Defendant before the court rules on these motions would be prejudicial to Plaintiff and detrimental to its right to protection under applicable law. Under the circumstances, until there is a ruling on the merits of the issue, the Plaintiff's interest in protecting its privileged and protected documents and information plainly outweighs any public interest in access to such information. Accordingly, Plaintiff respectfully requests that the Court grant this Motion and enter an Order requiring all parties to file pleadings and exhibits related to this issue under seal and to refrain from any further dissemination or public discussion of the same.

WHEREFORE, the Plaintiff respectfully requests that the Court grant the foregoing Motion to Determine Confidentiality of Court Records.



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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on June 3, 2015, we served the foregoing by email and by filing electronically with the Clerk of the court using the Florida Courts E-Filing Portal which will send notification of such filing to:

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