

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

GROVE FRESH DISTRIBUTORS, INC.,
an Illinois corporation,

Plaintiff,

v.

JOHN LABATT LIMITED, a Canadian
corporation, et al.,

Defendants.

MAR 13 1995

H. STUART QUINN, CLERK

No. 90 C 5009 UNITED STATES DISTRICT COURT

Judge James B. Zagel

Filed under seal
pursuant to order
dated August 28, 1990

NOTICE OF MOTION

TO: Steven M. Kowal, Esq.
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David J. Stetler, Esq.
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227 W. Monroe St.
Chicago, IL 60606

PLEASE TAKE NOTICE that on Tuesday, March 15, 1995, at 10:15 a.m., the undersigned shall appear before the Honorable James B. Zagel in the courtroom usually occupied by him at the U.S. District Court for the Northern District of Illinois, Eastern Division, and then and there present the attached Mr. Messina's Motion to Clarify that Papers on Appeal Need Not be Filed Under Seal, a true and correct copy of which is attached hereto and served upon you herewith.



Paul Strauss
One of the Attorneys for John Messina

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC.,)
an Illinois corporation,)
)
Plaintiff,)
)
v.) No. 90 C 5009
)
) Judge James B. Zagel
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JOHN LABATT LIMITED, a Canadian)
corporation, et al.,) Filed under seal
) pursuant to order
) dated August 28, 1990
Defendants.)

MR. MESSINA'S MOTION TO CLARIFY
THAT PAPERS ON APPEAL NEED
NOT BE FILED UNDER SEAL

John P. Messina, by his attorney, moves the Court for an order clarifying that the seal order in this case does not require the sealing of certain briefs and other papers that will be filed with the Seventh Circuit Court of Appeals, and in support thereof, states as follows:

1. On March 2, 1995, Mr. Messina filed a notice of appeal from this Court's order of February 1, 1995, which denied Mr. Messina's Motion to Dismiss All Post-Judgment Proceedings and for Fees and Costs Pursuant to 28 U.S.C. §1927 or, in the Alternative, for Leave to Intervene in the Rule 60(b) Proceedings and for Summary Judgment.

2. Pursuant to this Court's order, the motion which the Court denied on February 1, 1995 was filed by Mr. Messina under seal. Mr. Messina cannot describe the motion and order which is the subject of his appeal without describing the contents of pleadings that were filed under seal. Simply enough, Mr. Messina

cannot pursue his appeal to the Seventh Circuit without filing papers in the Seventh Circuit that describe what occurred in the district court.

3. The Seventh Circuit is highly unlikely to allow any papers related to this appeal to be filed under seal. The sealing of appellate papers is "an extraordinary request [and] requires an extraordinary justification." Pepsico, Inc. v. Redmond, 1995 WL 29349 (January 20, 1995, 7th Cir.). Neither the defendants nor Grove Fresh has ever made any particularized showing that legitimate interests in confidentiality require that the factual and legal issues underlying the two motions on appeal should be kept out of the public domain.

4. Accordingly, so Mr. Messina can pursue his appeal, he moves the Court for a clarification of its seal order, providing that his appellate papers need not be filed under seal.

WHEREFORE, Mr. Messina prays for an order clarifying that the brief and other papers to be filed in the Seventh Circuit Court of Appeals need not be filed under seal.

Respectfully submitted,

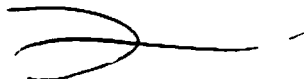


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One of the Attorneys for Mr. Messina

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CERTIFICATE OF SERVICE

Paul Strauss, an attorney, certifies that he caused a copy of the attached Notice and Motion to be served upon counsel to whom the foregoing Notice is directed, by messenger, this 13th day of March, 1995.



Paul Strauss