

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARK W. RASMUSSEN, RECEIVER	§	
FOR ARISEBANK,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
RICHARD SMITH, JR., and	§	Civil Action No. 3:18-cv-1034-M
KURT F. MATTHEW, JR.,	§	
	§	
Defendants.	§	
	§	

JOINT REPORT ON SETTLEMENT NEGOTIATIONS

Pursuant to the Court’s Scheduling Order (Dkt. 19), the parties provide this Joint Report on Settlement Negotiations.

1. The parties have had one substantive settlement discussion. That discussion took place on June 18, 2018, at an in-person meeting attended by Plaintiff Mark Rasmussen, Plaintiff’s counsel James Cox, and Defendants’ counsel John Teakell, in accordance with this Court’s order requiring a scheduling conference prior to entry of the Scheduling Order.

2. During the June 18, 2018 meeting, Plaintiff invited Defendants to make a settlement offer of less than the full amount of \$1.3 million (the approximate value at the time of the 95,000 PIVX coins transferred to Defendant Smith from AriseBank on or around January 10, 2018), provided that Defendants also provided credible and detailed information to Plaintiff about: (a) Defendants’ disposition of the PIVX coins and any proceeds; and (b) Defendants’ ability to pay from other sources any judgment obtained against them in this matter. Defendants’ counsel

responded at that time by noting that Defendants were uncertain as to their possible liability in connection with the claims brought in this proceeding, and there is a possibility that the innocent-owner status could be a factor with respect to Defendant Matthew. Defendants' counsel agreed to discuss the matter of possible settlement with his clients and, if appropriate, continue further discussions.

3. There have been no further settlement discussions since the June 18, 2018 meeting.

4. *Plaintiff's views.* Plaintiff made no further settlement efforts after the June 18, 2018, believing they would be ineffective in light of Defendants' decision not to respond to the invitation to make an offer as described above. For the same reasons, Plaintiff does not favor incurring the expense of mediation at this time. Plaintiff intends to file a motion for summary judgment around the close of discovery (November 19, 2018), and believes that, after that date, a settlement conference with the Magistrate Judge would be useful.

5. *Defendants' views.* In discussions with Plaintiff's counsel in connection with the preparation of this report, Plaintiff's counsel stated that Plaintiff would consider all circumstances to reach a settlement, including Defendants' ability to pay and the decline in the value of the subject coins, and Defendants' counsel will reiterate to Defendants to consider these factors for the possibility of a settlement.

Dated: October 10, 2018

Respectfully submitted,

/s/ James A. Cox

James A. Cox
Texas Bar No. 04946560
jacox@jonesday.com
Richard J. Johnson
Texas Bar No. 24088799
rjohnson@jonesday.com
Jones Day
2727 North Harwood Street
Dallas, TX 75201
Telephone: (214) 220-3939
Facsimile: (214) 969-5100

ATTORNEYS FOR PLAINTIFF

/s/ John Teakell

John Teakell
Law Office of John R. Teakell
jteakell@teakelllaw.com
2911 Turtle Creek Blvd.
Suite 300
Dallas, TX 75219
Telephone: 214-523-9076
Facsimile: 214-523-9077

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 10, 2018, the foregoing document was submitted to the clerk of the Court for the U.S. District Court, Northern District of Texas, and served on counsel for all parties through the electronic service system.

/s/ James A. Cox

James A. Cox