

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

GOVERNMENT'S MOTION FOR AN ORDER SEALING 1) PLAINTIFF'S MAY 20, 2011 RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR ENTRY OF AN EXPEDITED SCHEDULING ORDER AND 2) EXHIBITS 5 AND 6 TO THE MAY 20, 2011 DECLARATION OF JILL PTACEK FILED IN SUPPORT OF THE RESPONSE

Plaintiff, by counsel, respectfully moves for an order sealing its May 20, 2011 Response in Opposition to Defendants' Motion for Entry of an Expedited Scheduling Order ("Response") and Exhibits 5 and 6 to the May 20, 2011 Declaration of Jill Ptacek ("Ptacek Declaration") filed in support of the Response. Plaintiff will provide a redacted version of its Response to be filed publicly. Plaintiff asks that its un-redacted Response and Exhibits 5 and 6 remain sealed until further Order by this Court.

This motion is brought under Fed. R. Civ.P. 26(c) and Rule 9 of the Local Rules of this Court to limit access to the sealed documents solely to the Court, court personnel, and counsel in this case. Plaintiff's Response and the Ptacek Declaration Exhibits 5 and 6 contain competitively sensitive and confidential business information that is not otherwise publicly available and was produced to the Plaintiff pursuant to the Civil Investigative Demand (“CID”) statute, 15 U.S.C. §§1311-1314, which protects against

disclosure. Ptacek Declaration Exhibits 5 and 6 are confidential sales agreements between the Defendants and Tyson Foods, Inc., produced by the Defendant, George's, Inc., to Plaintiff pursuant to CID 26479, issued by Plaintiff to Defendant on April 18, 2011. Moreover, the Antitrust Division has a strong interest in protecting confidential and competitively sensitive information obtained during the course of its investigations.

Plaintiff's Response contains information obtained from Ptacek Declaration Exhibits 5 and 6.

A paper copy of the Response is being presented to the Court under separate cover pending ruling on this motion.

A proposed Order granting this motion is submitted for the convenience of the Court.

DATED: May 20, 2011.

Respectfully submitted,

UNITED STATES OF AMERICA:

/s/ Katherine A. Celeste
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CERTIFICATE OF SERVICE

I certify that on May 20, 2011, I caused the Government's Motion to File Plaintiff's Response in Opposition to Defendants' Motion for Entry of an Expedited Scheduling Order and Attachments 5 and 6 of the May 20, 2011 Declaration of Jill Ptacek Under Seal to be electronically filed with the Clerk of the Court using the CM/ECF system, which will provide electronic notice to the following counsel.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

**ORDER SEALING PLAINTIFF'S MAY 20, 2011 RESPONSE IN OPPOSITION
TO DEFENDANTS' MOTION FOR ENTRY OF AN EXPEDITED SCHEDULING
ORDER AND EXHIBITS 5 AND 6 TO THE MAY 20, 2011 DECLARATION OF
JILL PTACEK FILED IN SUPPORT OF THE RESPONSE**

Upon consideration of the Government's Motion for an Order Sealing its May 20, 2011 Response to Defendants' Motion for Entry of an Expedited Scheduling Order and Exhibits 5 and 6 to the May 20, 2011 Declaration of Jill Ptacek filed in support of the Response, it is hereby

ORDERED

that the referenced Response to Defendant's Motion and Exhibits 5 and 6 shall be placed under seal by the Clerk of this Court until further Order of the Court.

ENTERED this _____ day of May, 2011.