

From: William E. Johnson [mailto:wejohnson@jtgattorneys.com]
Sent: Thursday, December 17, 2009 2:33 PM
To: William Hurt
Cc: Emily Williams; jtate@stites.com; iramsey@stites.com; jberes@stites.com;
jon.fleischaker@dinslaw.com; kenyon.meyer@dinslaw.com;
james.adams@dinslaw.com; jeff@ifrahlaw.com; pds@gdm.com; mek@gdm.com;
Bill May; eric.lycan@steptoe-johnson.com; OBrienP@GTLAW.com
Subject: Re: Franklin Circuit Court Case: 08-CI-1409

Bill,

Can you explain to me how we can respond to your motion to amend when we are not given a copy of the proposed amended pleading? Also I question the procedure for amendment of an action on appeal. I believe the Circuit Court no longer has jurisdiction in the case. If you can't convince me that you know something I don't then I believe a motion to strike your motion is appropriate.

Bill

From: William Hurt [mailto:bhurt@hcm-law.com]
Sent: Friday, December 18, 2009 2:37 PM
To: William E. Johnson
Cc: jtate@stites.com; iramsey@stites.com; jberes@stites.com; Fleischaker, Jon; Meyer, R. Kenyon; Adams, James; jeff@ifrahlaw.com; pds@gdm.com; mek@gdm.com; Bill May; eric.lycan@steptoe-johnson.com; OBrienP@GTLAW.com
Subject: RE: Franklin Circuit Court Case: 08-CI-1409

To all:

As a preliminary matter, I do not believe anyone has standing to file a response or motion to strike.

In any case, the appeal of this case is merely an interlocutory appeal of a denial of a motion to intervene. I am unaware of any authority to the effect that this divests the circuit court of jurisdiction.

The mandamus action is an original action in the court of appeals, in which Judge Wingate was ordered only to not enforce his seizure orders. That judgment is

stayed pending appeal to the Kentucky Supreme Court, but in any event does not act to divest the circuit court of jurisdiction in this case.

Finally--and I hate to throw cold water on all this excitement--only one of you represents parties who will be affected by this motion, and he already knows. We sent the rest of you notice as a courtesy. We are still working on the complaint and will send it to the affected lawyer as soon as we have it ready.

Thanks

Bill

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From: Fleischaker, Jon [mailto:jon.fleischaker@dinslaw.com]

Sent: Monday, December 21, 2009 12:03 PM

To: William Hurt; William E. Johnson

Cc: jtate@stites.com; iramsey@stites.com; jberes@stites.com; Meyer, R. Kenyon; Adams, James; jeff@ifrahlaw.com; pds@gdm.com; mek@gdm.com; Bill May; eric.lycan@steptoe-johnson.com; OBrienP@GTLAW.com

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In response to your e-mail on December 18, I must confess that I am confused. The Court of Appeals ruled that we had standing in this case, and by implication, had a right to intervene. I believe the Supreme Court is likely to rule the same thing. The law of the case, as it stands now, is that my client, iMega, is a proper party to the lawsuit. As such, we are entitled to notice of all court filings made by you in the case, and we expect to receive such notice in a timely fashion.

Jon

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From: William Hurt [mailto:bhurt@hcm-law.com]
Sent: Monday, December 21, 2009 12:22 PM
To: Fleischaker, Jon; William E. Johnson

Cc: jtate@stites.com; iramsey@stites.com; jberes@stites.com; Meyer, R. Kenyon;
Adams, James; jeff@ifrahlaw.com; pds@gdm.com; mek@gdm.com; Bill May;
eric.lycan@steptoe-johnson.com; OBrienP@GTLAW.com
Subject: RE: Franklin Circuit Court Case: 08-CI-1409

Jon

While I respectfully disagree, it's an argument that I currently see no reason to engage in. We currently view your "clients" as non-parties to the circuit court action and will object to anything that you file, but will nonetheless continue to send you notice. Should that position change in the future, we will let you know.

Thanks

Bill

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