

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

DAVID ZINK, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:12-cv-04209-NKL
)	
GEORGE A. LOMBARDI, et al.,)	
)	
Defendants.)	

MOTION TO INTERVENE

Comes now movant, Larry C. Flynt, pursuant to Federal Rule of Civil Procedure 24(b) and seeks to intervene in this case for the limited purpose of filing a motion to unseal docket entries based on the First Amendment and common law rights of access. Flynt's proposed motion to unseal and suggestions in support are attached hereto. For the reasons set forth in the suggestions in support of this motion, which are filed herewith, Flynt should be permitted to intervene and file his motion.

Respectfully submitted,

/s/ Anthony E. Rothert
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Attorneys for Movant

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and a copy was made available electronically to all counsel of record.

/s/ Anthony E. Rothert

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GEORGE A. LOMBARDI, et al.,)	
)	
Defendants.)	

MOTION TO UNSEAL DOCKET ENTRIES

Comes now movant, Larry C. Flynt, and moves this Court for entry of an order unsealing the docket entries in this case. The following docket entries do not appear on the publicly available docket: 16, 17, 18, 30, 31, 32, 33, 34, 35, 39, 40, 42, 49, 54, 64, 67, 70, 71, 95, and 97. Upon inquiry, the Clerk advised that these docket entries are not publicly available. Further, movant is unable to ascertain what documents are under seal or the basis for sealing any docket entries. As explained in more detail in the accompanying suggestions in support of this motion, the First Amendment of the United States Constitution and the common law afford the public and the press a presumptive right of access to these judicial documents, including docket entries.

WHEREFORE Flynt respectfully requests that this Court direct that the docket entries in this case be made available to the public.

Respectfully submitted,

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SUGGESTIONS IN SUPPORT OF MOTION TO UNSEAL DOCKET ENTRIES

I. Background.

Larry C. Flynt moves this Court for entry of an order unsealing the docket entries in this case.

Flynt has been in the publishing business since the early 1970's. Ex. A at ¶ 3. In 1978, he stood trial on obscenity charges in Georgia. *Id.* at ¶ 4. Flynt and one of his attorneys were shot by a sniper near the courthouse. *Id.* Flynt was left partially paralyzed with permanent spinal-cord damage. *Id.* at ¶ 5.

One of the plaintiffs in this case, Joseph Franklin, confessed to shooting Flynt. *Id.* at ¶ 6. As a result, Flynt has a particular interest in Missouri's plans to execute Franklin. *Id.* Missouri has scheduled Franklin to die on November 20, 2013. *Id.*

To express his opinion that Missouri should not execute Franklin, Flynt desires to petition the Governor of Missouri to commute Franklin's sentence and to share with the people of Missouri his concerns about the death penalty. *Id.* at ¶ 8. Flynt has advocated that Franklin should spend the remainder of his life in prison rather than be killed by the state. *Id.* at ¶ 7. As he explained in a published commentary:

Franklin has been sentenced by the Missouri Supreme Court to death by legal injection on Nov. 20. I have every reason to be overjoyed with this decision, but I am not. I have had many years in this wheelchair to think about this very topic. As I see it, the sole motivating factor behind the death penalty is vengeance, not justice, and I firmly believe that a government that forbids killing among its citizens should not be in the business of killing people itself.

Id.

Flynt has learned about the secrecy shrouding Missouri's execution process. *Id.* at ¶ 9. This includes recent revelations that Missouri appears to have used unsavory methods to secure and maintain execution drugs and tried to hide that and other information from the public. *Id.* In October, Missouri produced records about its drug-supply in response to Sunshine Law litigation. *Id.* at ¶ 10. After those records were made public, Missouri abandoned its then-existing execution protocol and cancelled the planned execution of Allen Nicklasson. *Id.* at ¶ 10.

The following docket entries do not appear on the publicly available docket: 16, 17, 18, 30, 31, 32, 33, 34, 35, 39, 40, 42, 49, 54, 64, 67, 70, 71, 95, and 97. A copy of the publicly available docket is attached as Exhibit B. Upon inquiry, the Clerk advised that these docket entries are not publicly available. It is not possible to ascertain what documents are under seal or the basis for sealing any docket entries.

II. Argument.

Flynt has a keen interest in Missouri's efforts to kill the individual who shot him. But so, too, does the public-at-large, and Flynt makes this motion as member of the public concerned about the ethical and legal questions surrounding Missouri's insistence on continuing executions. He requests access, in whole or in part, to the docket entries in this case. The docket entries will allow Flynt to determine whether there are additional judicial records to which the public might be entitled to access.

Flynt has both a First Amendment and common-law right to access the records of this Court's proceedings.

A. There is a presumptive First Amendment right of access to records that are part of a civil proceeding in federal court.

The docket entries identified by Flynt are part of the judicial record and, thus, publicly accessible under the First Amendment. The First Amendment right of public access to court records is governed by the “experience and logic” test set forth in *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 9 (1986) (*Press-Enterprise II*). The right extends to judicial proceedings when (1) a tradition of public access exists and (2) this access plays a significant positive role in the functioning of the judicial process. *Id.* In *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575–77 (1980), the Supreme Court recognized that the First Amendment provides the public with a presumptive right of access to criminal trials, as this constitutional provision was enacted against the backdrop of a long tradition of public trials. *Richmond Newspapers* was followed by a line of cases expanding the doctrine. *See Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 605–07 (1982) (trial on charges of the rape of a minor is public); *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 505 (1984) (*Press-Enterprise I*) (voir dire is public); *Press Enterprise II*, 478 U.S. at 10 (preliminary hearings are public).

The Supreme Court also addressed the First Amendment right of access to civil judicial proceedings in *Richmond Newspapers*, 448 U.S. at 580 n.17, when it observed that the question “is not raised by this case, but we note that historically both civil and criminal trials have been presumptively open.” The Court’s decision in *Richmond Newspapers* rested on the fact that criminal trials had been open “for centuries.” *Id.* at 580. Thus, there is a compelling reason to apply the authority of *Richmond Newspapers* to civil as well as criminal trials in view of the fact that civil trials have historically been just as open as criminal trials. *See Publiker Indus., Inc. v.*

Cohen, 733 F.2d 1059, 1066 (3d Cir. 1984) (noting that “[t]he public’s right of access to civil trials and records is as well established as that of criminal proceedings and records.”).

Every circuit that has ruled on the issue has concluded that civil judicial proceedings, like criminal proceedings, are subject to a First Amendment right of access under *Richmond Newspapers*. See *Lugosch v. Pyramid Co.*, 435 F.3d 110, 124 (2d Cir. 2006) (“[T]he First Amendment does secure to the public and to the press a right of access to civil proceedings.”) (quoting *Westmoreland v. Columbia Broad. Sys., Inc.*, 752 F.2d 16, 23 (2d Cir. 1984)); *Rushford v. New Yorker Magazine*, 846 F.2d 249, 253 (4th Cir. 1988) (“We believe that the more rigorous First Amendment standard should also apply to documents filed in connection with a summary judgment motion in a civil case.”); *Publicker*, 733 F.2d at 1071 (“[T]he public and press possess a First Amendment right of access to civil proceedings.”); *In re Cont’l Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984) (“[T]he policy reasons for granting public access to criminal proceedings apply to civil cases as well.”); *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1178-79 (6th Cir. 1983) (“The historical support for access to criminal trials applies in equal measure to civil trials.”). But see *Ctr. for Nat. Sec. Studies v. U.S. Dep’t of Justice*, 331 F.3d 918, 935 (D.C. Cir. 2003) (doubting, but not deciding, whether First Amendment right of access extends to civil proceedings).

For these reasons, Flynt has a presumptive First Amendment right of access to the docket entries in this case.

B. There is a presumptive right of access to the records under the common law.

The Supreme Court held in *Nixon v. Warner Communications*, 435 U.S. 589, 597 (1978), that “the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” In addition to the First Amendment right

of access, there is also a common law right of access to public records generally from all three branches of government, which includes but is not limited to judicial records. *See Washington Legal Foundation v. United States Sentencing Commission*, 89 F.3d 897, 903-04 (D.C. Cir. 1996) (*WLF II*). As the Eighth Circuit recently explained, the common-law right of access to judicial records “bolsters public confidence in the judicial system by allowing citizens to evaluate the reasonableness and fairness of judicial proceedings and to keep a watchful eye on the workings of public agencies.” *IDT Corp. v. eBay*, 709 F.3d 1220, 1222 (8th Cir. 2013) (quotation and citations omitted). In that case, the court affirmed “that the common-law right of access applies to judicial records in civil proceedings.” *Id.*

“The case dockets maintained by the clerk of the district court are public records.” *In re Search Warrant for Secretarial Area Outside Office of Gunn*, 855 F.2d 569, 575 (8th Cir. 1988) (quotation omitted).

For these reasons, Flynt has a common law right of access to the records.

C. There is no apparent compelling need to keep the docket entries from public view.

Public access to this Court’s records is presumptive under both the First Amendment and the common law. But this Court might find that some parts of the documents do require secrecy.

Under the First Amendment, access can only be denied when “(1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest.” *Washington Post v. Robinson*, 935 F.2d 282, 290 (D.C. Cir. 1991) (quoting *Oregonian Pub. Co. v. U.S. Dist. Court for Dist. of Oregon*, 920 F.3d 1462, 1466 (9th Cir. 1990)).

“Where the common-law right of access is implicated, the court must consider the degree to which sealing a judicial record would interfere with the interests served by the common-law right of access and balance that interference against the salutary interests served by maintaining confidentiality of the information sought to be sealed.” *IDT Corp.*, 709 F.3d at 1223. “Modern cases on the common-law right of access say that the weight to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and resultant value of such information to those monitoring the federal courts.” *Id.*, at 1224 (internal quotation and citations omitted).

As the Eighth Circuit has explained,

The docketing of motions to close a proceeding or seal certain documents provides notice to the public, as well as to the press, that such a motion has been made and, assuming that such motions are docketed sufficiently in advance of a hearing on or the disposition of the motion, affords the public and the press an opportunity to present objections to the motion. The fact that a closure or sealing order has been entered must itself be noted on the court's docket, absent extraordinary circumstances.

In re Search Warrant for Secretarial Area Outside Office of Gunn, 855 F.2d at 575.

The public record does not demonstrate the justification for sealing the docket entries that Flynt identifies in his motion. Without access to the judicial records, “the public [is] unable to evaluate the reasonableness and fairness of the judicial proceedings in this case.” *Aviva Sports, Inc. v. Fingerhut Direct Mktg., Inc.*, CIV. 09-1091 JNE/JSM, 2013 WL 4400395, *2 (D. Minn. Aug. 16, 2013). Any party who advocates for maintaining the secrecy of docket entries should be

required to articulate a justification for doing so and explain how that justification might outweigh the presumptive First Amendment and common-law rights of access.

Flynt acknowledges that certain docket entries might require redaction. As in *In re Search Warrant for Secretarial Area Outside Office of Gunn*, “[b]efore unsealing the docket sheet, the district court may review the docket entries and redact any revealing references.” 855 F.2d at 575.

III. Conclusion.

For the foregoing reasons, movant Flynt requests this Court grant his motion to unseal docket entries.

Respectfully submitted,

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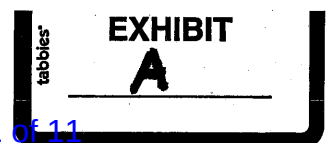
/s/ Anthony E. Rothert

Declaration of Larry C. Flynt

I, Larry C. Flynt, declare as follows:

1. I am over the age of 18 and legally competent to make a declaration.
2. I make this declaration on the basis of personal knowledge and upon information and belief.
3. I have been in the publishing business since the early 1970s.
4. On March 6, 1978, while standing trial on obscenity charges in Gwinnett County, Georgia, one of my attorneys and I were shot by a sniper near the courthouse.
5. As a result of the shooting, I was left partially paralyzed with permanent spinal-cord damage.
6. Joseph Franklin confessed to the shooting, although he has not yet been charged. As a result, I have a particular interest in Missouri's plans to execute Franklin as early as November 20, 2013.
7. I have advocated that Franklin should spend the remainder of his life in prison rather than be killed. As I explained in a published commentary (Encl. 1):

Franklin has been sentenced by the Missouri Supreme Court to death by legal injection on Nov. 20. I have every reason to be overjoyed with this decision, but I am not. I have had many years in this wheelchair to think about this very topic. As I see it, the sole motivating factor behind the death penalty is vengeance, not justice, and I firmly believe that a government that forbids killing among its citizens should not be in the business of killing people itself.



8. To further express my belief that Missouri should not execute Franklin, I plan on petitioning the Governor of Missouri to commute Franklin's sentence and to share with the people of Missouri my concerns about the death penalty, both in general and as implemented by Missouri.

9. I recently learned about the secrecy shrouding Missouri's execution process. This includes recent revelations that Missouri appears to have used unsavory methods to secure and maintain execution drugs and hiding this and other information from the public.

10. As recently as October 2013, Missouri produced records about its drug-supply in response to Sunshine Law litigation. Days after those records were made public, Missouri abandoned its execution protocol and cancelled the planned execution of Allen Nicklasson, another intervening plaintiff in this action.

11. I am skeptical that the individual designated "M3" is truly a board-certified anesthesiologist because anesthesiologists are certified by the American Board of Anesthesiology, Inc. ("ABA"). According to ABA:

[I]t is the ABA's position that an anesthesiologist should not participate in an execution by lethal injection and that violation of this policy is inconsistent with the Professional Standing criteria required for ABA Certification and Maintenance of Certification in Anesthesiology or any of its subspecialties. As a consequence, ABA certificates may be revoked if the ABA determines that a diplomate participates in an execution by lethal injection."

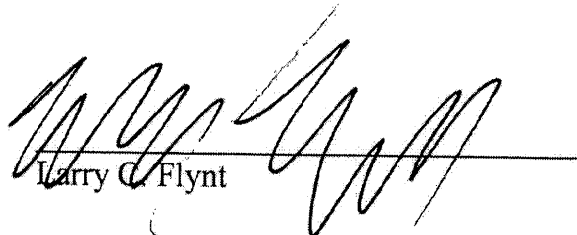
ABA's 2013 Booklet of Information, § 5.06. (Encl. 2)

12. Furthermore, on April 2, 2010, the ABA issued a Commentary announcing that “[e]ffective February 15, 2010, the American Board of Anesthesiology (ABA) has incorporated the AMA’s position on capital punishment into its professional standing requirements[.]” (Encl. 3). The Commentary made clear that “anesthesiologists may not participate in capital punishment if they wish to be certified by the ABA.” The purpose of the policy is “to uphold the highest standards of medical practice and encourage anesthesiologists and other physicians to honor their professional obligations to patients and society.”

13. I believe that I and other members of the public have a right to review the evidence upon which this Court relied in making its factual findings about M3, but cannot do so because it is filed under seal.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/8/13


Larry C. Flynt

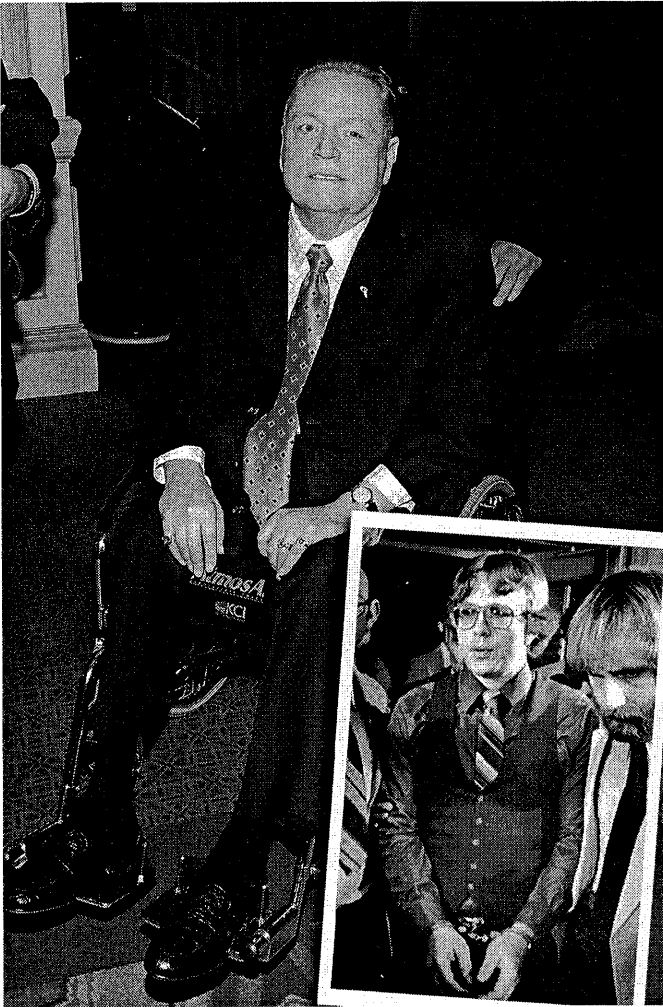
Source URL: <http://www.hollywoodreporter.com/news/larry-flynt-dont-execute-man-649158>

Larry Flynt: Don't Execute the Man Who Paralyzed Me (Guest Column)

6:00 AM PDT 10/17/2013 by Larry Flynt

- 173
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[1]



Getty Images; AP

Larry Flynt (Inset: Joseph Paul Franklin)

Joseph Paul Franklin, who has confessed to shooting Flynt in 1978 and been convicted in a series of racially motivated murders, is set for execution in Missouri in November. Flynt writes for THR, "I have every reason to be overjoyed with that decision, but I am anything but."

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On March 6, 1978, as I stood on the steps of the Georgia courthouse where I was fighting obscenity charges, a series of gunshots rang out. I remember nothing that happened after that until I woke up in the intensive care unit. The damage to my central nervous system was severe, and it took several weeks before doctors could stabilize me. From then on, I was paralyzed from the waist down, and have been confined to a wheelchair ever since.

Years later, a white supremacist named **Joseph Paul Franklin** was arrested for shooting and killing an interracial couple. He soon began confessing to other crimes, and that's when he admitted to having shot me. He said he'd targeted me because of a photo spread I ran in *Hustler* magazine featuring a black man and a white woman. He had bombed several synagogues. He had shot **Vernon Jordan Jr.**, the civil rights activist. He hated blacks, he hated Jews, he hated all minorities. He went around the country committing all these crimes. I think somebody had to have been financing him, but nothing ever turned up on who that somebody may have been.

PHOTOS: Larry Flynt and The Inner Life of a Dirty Old Man [5]

In all the years since the shooting, I have never come face-to-face with Franklin. I would love an hour in a room with him and a pair of wire-cutters and pliers, so I could inflict the same damage on him that he inflicted on me. But, I do not want to kill him, nor do I want to see him die.

Supporters of capital punishment argue that it is a deterrent which prevents potential murderers from committing future crimes, but research has failed to provide a shred of valid scientific proof to that effect whatsoever. In 18th century England, pickpocketing was a capital offense. Once a week, crowds would gather in a public square to observe public hangings of convicted pickpockets, unaware that their own pockets were being emptied by thieves moving among them. That's a true story, and, if you're ever trying to convince somebody of why the death penalty is not a deterrent, that's a good example.

PHOTOS: 20 Biggest Political Players in Hollywood [6]

As far as the severity of punishment is concerned, to me, a life spent in a 3-by-6-foot cell is far harsher than the quick release of a lethal injection. And costs to the taxpayer? Execution has been proven to be far more expensive for the state than a conviction of life without parole, due to the long and complex judicial process required for capital cases.

Franklin has been sentenced by the Missouri Supreme Court to death by legal injection on Nov. 20. I have every reason to be overjoyed with this decision, but I am not. I have had many years in this wheelchair to think about this very topic. As I see it, the sole motivating factor behind the death penalty is vengeance, not justice, and I firmly believe that a government that forbids killing among its citizens should not be in the business of killing people itself.

Links:

- [1] [http://pinterest.com/pin/create/button/?url=www.hollywoodreporter.com/news/larry-flynt-dont-execute-man-649158&media=http://www.hollywoodreporter.com/sites/default/files/2013/10/larry_flynt_no_killer_instinct_a_p.jpg&description=Larry Flynt: Don't Execute the Man Who Paralyzed Me \(Guest Column\)](http://pinterest.com/pin/create/button/?url=www.hollywoodreporter.com/news/larry-flynt-dont-execute-man-649158&media=http://www.hollywoodreporter.com/sites/default/files/2013/10/larry_flynt_no_killer_instinct_a_p.jpg&description=Larry%20Flynt%20Don't%20Execute%20the%20Man%20Who%20Paralyzed%20Me%20(Guest%20Column))
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THE AMERICAN BOARD OF ANESTHESIOLOGY, INC.

Member Board of the American Board of Medical Specialties



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BOOKLET OF INFORMATION

Certification and Maintenance of Certification

February 2013

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ENCL. 2

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the ABA office and shall set forth the grounds upon which the request for formal review is based. If the individual does not give the ABA written notification of the intent to seek formal review within the time and in the manner prescribed, the individual shall be considered to have accepted the decision of the Board and the decision shall become final.

Upon receipt of notice of a request for formal review within the time and in the manner prescribed, the request will be screened to determine whether or not it meets the standards for a formal review to occur. Minimum criteria for a formal review are grounds that the Board's action was inconsistent with ABA policies or not supported by the evidence available to the Board when the action was taken. If it is determined that there are grounds for a formal review, the ABA shall form a Review Panel and schedule a hearing. Otherwise, the decision of the Board shall become final.

5.06 PROFESSIONAL STANDING

Professional standing satisfactory to the ABA is a requirement for acceptance as a candidate for ABA certification and for certification, subspecialty certification, and maintenance of certification by the ABA.

Applicants with a medical license that is revoked, suspended or surrendered in lieu of revocation or suspension will not be accepted as a candidate for initial certification in anesthesiology. Applicants with less severe restrictions on a medical license may be accepted into the ABA system, and certification may be deferred until the medical license is unrestricted or the Credentials Committee recommends and the Board approves awarding certification to the physician.

Candidates with a medical license that is revoked, suspended or surrendered in lieu of revocation or suspension may be permitted to take ABA examinations and certification will be deferred until the license is unrestricted. Candidates with less severe restrictions on a medical license may be permitted to take ABA examinations and certification may be deferred until the medical license is unrestricted or the Credentials Committee recommends and the Board approves awarding certification to the physician.

The ABA will initiate proceedings to revoke the certification(s) of diplomates with a medical license that is revoked, suspended or surrendered in lieu of revocation, suspension, inquiry or investigation, upon notice of such action. The ABA has the authority and may decide to undertake proceedings to take action against diplomates with other, less severe medical licensure restrictions (e.g., probation or "conditions"), which may include revocation of the certification.

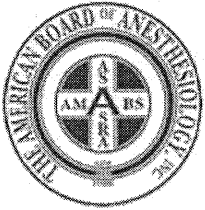
The ABA incorporates the AMA Code of Medical Ethics, Opinion E-2.06 (June 2000), regarding physician participation in capital punishment into its own professional standing policy. Specifically, it is the ABA's position that an anesthesiologist should not participate in an execution by lethal injection and that violation of this policy is inconsistent with the Professional Standing criteria required for ABA Certification and Maintenance of Certification in Anesthesiology or any of its subspecialties. As a consequence, ABA certificates may be revoked if the ABA determines that a diplomate participates in an execution by lethal injection.

5.07 RE-ATTAINING CERTIFICATION STATUS

The ABA established an application procedure for diplomates with the designation Certified – Not Clinically Active, Certified – Retired, or Retired to re-attain the designation Certified. There also is a procedure for physicians whose ABA certification is revoked to apply to the ABA to re-attain certification. Interested physicians should contact the ABA office for details about these application procedures.

The ABA considers applications for re-attaining ABA certification on an individualized, case-by-case basis. The ABA may require the applicant to do one or more of the following in order to re-attain certification:

- Pass the ABA Part 1 Examination.



THE AMERICAN BOARD OF ANESTHESIOLOGY, INC.

A Member Board of the American Board of Medical Specialties

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Commentary (4/2/10)

Anesthesiologists and Capital Punishment

The majority of states in the United States authorize capital punishment, and nearly all states utilize lethal injection as the means of execution. However, this method of execution is not always straightforward (1), and, therefore, some states have sought the assistance of anesthesiologists (2).

This puts anesthesiologists in an untenable position. They can assuredly provide effective anesthesia, but doing so in order to cause a patient's death is a violation of their fundamental duty as physicians to do no harm.

For decades the American Medical Association (AMA) has been opposed to physician involvement in capital punishment on the grounds that physicians are members of a profession dedicated to preserving life when there is hope of doing so (3). Effective February 15, 2010, the American Board of Anesthesiology (ABA) has incorporated the AMA's position on capital punishment into its professional standing requirements for all anesthesiologists who are candidates for or diplomates of the ABA (4). Thus, anesthesiologists may not participate in capital punishment if they wish to be certified by the ABA. What constitutes participation is clearly defined by the AMA's policy.

The ABA has not taken this action because of any position regarding the appropriateness of the death penalty. Anesthesiologists, like all physicians and all citizens, have different personal opinions about capital punishment. Nonetheless, the ABA, like the AMA, believes strongly that physicians should not be involved in capital punishment. The American Society of Anesthesiologists has also supported the AMA's position in this regard (5), as have others (6). Patients should never confuse the practice of anesthesiology with the injection of drugs to cause death. Physicians should not be expected to act in ways that violate the ethics of medical practice, even if these acts are legal.

In conclusion, the ABA's policy on capital punishment is intended to uphold the highest standards of medical practice and encourage anesthesiologists and other physicians to honor their professional obligations to patients and society.

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References

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2. Gawande A. When law and ethics collide: Why physicians participate in executions. N Engl J Med. 2006;354(12):1221-9.
3. American Medical Association Code of Medical Ethics, Opinion E-2.06 - Capital Punishment (June 2000). (Accessed March 9, 2010, at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion206.shtml>)
4. American Board of Anesthesiology professional standing policy: Anesthesiologists and capital punishment. (Accessed February 15, 2010, at <http://www.theABA.org/Home/notices#punishment>) and Newsletter of the American Society of Anesthesiologists 2010; 74(3): 49 (ASA Newsletter will be available online after April 1, 2010 at: <http://www.asahq.org/Newsletters/NL%20Portal/march10.html>)
5. Guidry OF. Message from the President: Observations regarding lethal injection. Newsletter of the American Society of Anesthesiologists. August, 2006. (Accessed March 9, 2010, at <http://www.asahq.org/Newsletters/2006/08-06/guidry08-06.html>)
6. Truog RD, Brennan TA. Participation of physicians in capital punishment. N Engl J Med 1993; 329: 1346-1350.

U.S. District Court
Western District of Missouri (Jefferson City)
CIVIL DOCKET FOR CASE #: 2:12-cv-04209-NKL

Zink et al v. Lombardi et al
Assigned to: District Judge Nanette K. Laughrey
Case in other court: Circuit Court of Cole County,
12AC-CC00396
Cause: 28:1441 Petition for Removal

Date Filed: 08/01/2012
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Date Filed	#	Docket Text
08/01/2012	<u>1</u>	NOTICE OF REMOVAL from Circuit Court of Cole County County, case number 12AC-CC00396, filed by Stephen David Hawke on behalf of George A. Lombardi, David R. Dormire, John Does 2-40, Terry Russell. Filing fee \$ 350, check A6366228 received 8/2/12. (Attachments: # <u>1</u> Exhibit Complaint--part 1, # <u>2</u> Exhibit Complaint--part 2, # <u>3</u> Exhibit Exhibits to Complaint, # <u>4</u> Exhibit Exhibits to Complaint, # <u>5</u> Exhibit Summons, # <u>6</u> Exhibit Motion and Notice)(Hawke, Stephen) (Additional attachment(s) added on 8/2/2012: # <u>7</u> Civil Cover Sheet) (James, Carrie). Modified on 8/2/2012 to reflect receipt of check in JC Clerk's office (Russel, Jeri). (Entered: 08/01/2012)
08/03/2012		RECEIPT number KCMO024041 in the amount of \$350 issued to Missouri State Treasurer. (Martin, Jan) (Entered: 08/03/2012)
08/03/2012	<u>2</u>	Notice of EAP assignment to United States Magistrate Judge Matt J. Whitworth. (Attachments: # <u>1</u> General Order)(James, Carrie) (Entered: 08/03/2012)
08/08/2012	<u>3</u> R	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 8/27/2012 unless otherwise directed by the court. (Spillane, Michael) (Entered: 08/08/2012)
08/14/2012	<u>4</u>	ORDER ON PRETRIAL PROCEDURES entered by Judge Nanette Laughrey. (Kanies, Renea) (Entered: 08/14/2012)
08/14/2012	<u>5</u>	ORDER entered by Judge Nanette Laughrey. Proposed scheduling order due by 9/5/2012. Rule 26 conference due by 8/28/2012.

		(Kanies, Renea) (Entered: 08/14/2012)
08/20/2012	6	MOTION to remand filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 9/7/2012 unless otherwise directed by the court. (Attachments: # 1 Exhibit Ex. A, # 2 Exhibit Ex. B)(Luby, Joseph) (Entered: 08/20/2012)
08/20/2012	7	First MOTION for extension of time to file response/reply as to 3 R MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Elizabeth Unger Carlyle on behalf of All Plaintiffs. Suggestions in opposition/response due by 9/7/2012 unless otherwise directed by the court. (Related document(s) 3 R) (Carlyle, Elizabeth) (Entered: 08/20/2012)
08/21/2012	8	ORDER entered by Judge Nanette Laughrey finding as moot 7 motion for extension of time to file response. The response to 3 R Motion to Dismiss is currently due 08/27/2012. This is a TEXT ONLY ENTRY. No document is attached. (Kanies, Renea) (Entered: 08/21/2012)
08/27/2012	9	MOTION for leave to file <i>Suggestions in Opposition to Motion to Dismiss</i> filed by John William Simon on behalf of All Plaintiffs. Suggestions in opposition/response due by 9/13/2012 unless otherwise directed by the court. (Attachments: # 1 Exhibit Suggestions Tendered for Filing)(Simon, John) (Entered: 08/27/2012)
08/28/2012	10	CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Stephen David Hawke on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Hawke, Stephen) (Entered: 08/28/2012)
08/28/2012	11	CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink.(Luby, Joseph) (Entered: 08/28/2012)
08/29/2012	12	ORDER by Judge Nanette Laughrey GRANTING 9 Plaintiffs' Motion for Leave to File Suggestions in Opposition to Motion to Dismiss 3 R of Greater than 15 Pages. Plaintiffs' request to file 37

		pages in opposition to Motion to Dismiss, exclusive of cover and tables, is GRANTED. Defendants Reply to Plaintiffs Suggestions in Opposition is due on or before September 17, 2012. This is a TEXT ONLY ENTRY. No document is attached. (Kanies, Renea) (Entered: 08/29/2012)
08/29/2012	13 R	SUGGESTIONS in opposition re 3 R MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Tendered 8/27/2012</i> filed by John William Simon on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 9/17/2012 unless otherwise directed by the court (Related document(s) 3 R) (Simon, John) (Entered: 08/29/2012)
09/04/2012	14	PROPOSED SCHEDULING ORDER by David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, John Does 2-40, David R. Dormire, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, George A. Lombardi, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Terry Russell, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. (Luby, Joseph) (Entered: 09/04/2012)
09/07/2012	15 R	SUGGESTIONS in opposition re 6 MOTION to remand filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. Reply suggestions due by 9/24/2012 unless otherwise directed by the court (Related document(s) 6) (Spillane, Michael) (Entered: 09/07/2012)
09/17/2012	19 R	REPLY SUGGESTIONS to motion re 6 MOTION to remand filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. (Related document(s) 6) (Luby, Joseph) (Entered: 09/17/2012)

09/17/2012	<u>20</u>	REPLY SUGGESTIONS to motion re <u>3</u> R MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Reply Suggestions in Support of Motion to Dismiss</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. (Related document(s) <u>3</u> R) (Spillane, Michael) (Entered: 09/17/2012)
10/05/2012	21	ORDER by Judge Nanette Laughrey. Defendants Lombardi, et al., are requested to update the Court on the issue of mootness regarding the use of propofol in the execution protocol. Defendants are requested to submit a status update on this issue on or before October 15, 2012. Status Report due by 10/15/2012. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 10/05/2012)
10/09/2012	<u>22</u> R	ORDER entered by Judge Nanette Laughrey. Plaintiffs' Motion to Remand [Doc. # 6] is DENIED. (Kanies, Renea) (Entered: 10/09/2012)
10/10/2012	<u>23</u>	NOTICE of appearance by Kathryn Parish on behalf of David Zink (Parish, Kathryn) (Entered: 10/10/2012)
10/10/2012	<u>24</u>	NOTICE of appearance by Kathryn Parish on behalf of David M. Barnett (Parish, Kathryn) (Entered: 10/10/2012)
10/10/2012	<u>25</u>	NOTICE of appearance by Kathryn Parish on behalf of Earl Ringo (Parish, Kathryn) (Entered: 10/10/2012)
10/10/2012	<u>26</u>	NOTICE of appearance by Kathryn Parish on behalf of John C. Middleton (Parish, Kathryn) (Entered: 10/10/2012)
10/15/2012	<u>27</u>	STATUS REPORT <i>on mootness</i> by George A. Lombardi. (Spillane, Michael) (Entered: 10/15/2012)
11/08/2012	<u>28</u>	SCHEDULING ORDER entered by Judge Nanette Laughrey: Discovery due by 4/25/2013. Pretrial Conference set for 10/7/2013 08:30 AM in District Courtroom 4A, Jefferson City (NKL) before District Judge Nanette K. Laughrey. Bench Trial set for 10/7/2013 09:00 AM in District Courtroom 4A, Jefferson City (NKL) before District Judge Nanette K. Laughrey. Dispositive Motions due by 5/15/2013. (Attachments: # <u>1</u> Memo on PTC) (Kanies, Renea) (Entered: 11/08/2012)
11/08/2012	<u>29</u>	RULES OF TRIAL entered by Judge Nanette Laughrey. (Kanies, Renea) (Entered: 11/08/2012)

11/29/2012	<u>36</u>	First MOTION for extension of time <i>to file answer</i> filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 12/17/2012 unless otherwise directed by the court. (Spillane, Michael) (Entered: 11/29/2012)
12/03/2012	<u>37</u>	ORDER entered by Judge Nanette Laughrey. Defendant's Motion for Extension of Time to File Answer <u>36</u> is GRANTED. Defendant's Answer is due on or before December 7, 2012. This is a TEXT ONLY ENTRY. No document is attached. (Kanies, Renea) (Entered: 12/03/2012)
12/07/2012	<u>38</u>	ANSWER to Complaint on behalf of George A. Lombardi.(Spillane, Michael) (Entered: 12/07/2012)
12/22/2012	<u>41</u>	CERTIFICATE OF SERVICE by Russell E. Bucklew, Earl Ringo, Michael A. Taylor <i>and Plaintiffs Generally</i> filed by John William Simon on behalf of Plaintiffs Russell E. Bucklew, Earl Ringo, Michael A. Taylor.(Simon, John) (Entered: 12/22/2012)
01/16/2013	<u>43</u>	MOTION for judgment on the pleadings filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 2/4/2013 unless otherwise directed by the court. (Spillane, Michael) (Entered: 01/16/2013)
01/30/2013	<u>44</u>	SUGGESTIONS in opposition re <u>43</u> MOTION for judgment on the pleadings filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 2/19/2013 unless otherwise directed by the court (Related document(s) <u>43</u>) (Luby, Joseph) (Entered: 01/30/2013)
02/04/2013	<u>45</u>	CERTIFICATE OF SERVICE by All Defendants <i>Answers to Interrogatories to Dave Dormire</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael) (Entered: 02/04/2013)
02/04/2013	<u>46</u>	CERTIFICATE OF SERVICE by All Defendants <i>Certificate of Service John Doe # 2 Interrogatories</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael)

		(Entered: 02/04/2013)
02/04/2013	47	CERTIFICATE OF SERVICE by All Defendants <i>Certificate of Service Response to Request for Production</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael) (Entered: 02/04/2013)
02/15/2013	48	REPLY SUGGESTIONS to motion re 43 MOTION for judgment on the pleadings <i>Reply Suggestions in Support of Motion For Judgment on the Pleadings</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. (Related document(s) 43) (Spillane, Michael) (Entered: 02/15/2013)
02/27/2013	50	MOTION for leave to file <i>Notice of Recent Authority</i> filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 3/18/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit Case)(Spillane, Michael) (Entered: 02/27/2013)
02/28/2013	51	RESPONSE to motion re 50 MOTION for leave to file <i>Notice of Recent Authority</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 3/18/2013 unless otherwise directed by the court (Attachments: # 1 Exhibit State's Reply on Motion to Set Execution Date)(Luby, Joseph) (Entered: 02/28/2013)
03/01/2013	52	ORDER entered by Judge Nanette Laughrey. Defendants' Motion for Leave to File 50 is GRANTED. Defendants may file a separate notice of recent authority of no more than 5 pages, exclusive of exhibits, on or before 3/7/2013. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 03/01/2013)
03/04/2013	53	MOTION for extension of time <i>to serve expert report</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 3/21/2013 unless otherwise directed by the court. (Luby, Joseph) (Entered: 03/04/2013)

03/04/2013	55	ORDER entered by Judge Nanette Laughrey. Plaintiffs' consent Motion for Extension of Time 53 is GRANTED. Plaintiffs have until March 14, 2013, to disclose Dr. Heath's expert report to Defendants under Rule 26(a)(2). This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 03/04/2013)
03/05/2013	56	NOTICE of filing <i>Notice of Recent Authority</i> by George A. Lombardi re 52 Order on Motion for Leave to File, (Attachments: # 1 Exhibit Clapper v. Amnesty International)(Spillane, Michael) (Entered: 03/05/2013)
03/06/2013	57	MOTION for leave to file <i>Reponse to Defendants' "Notice of Recent Authority"</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 3/25/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit Proposed response to Defendants' "Notice of Recent Authority", # 2 Exhibit Exhibit 1 to Plaintiffs' Proposed Response)(Luby, Joseph) (Entered: 03/06/2013)
03/11/2013	58	ORDER entered by Judge Nanette Laughrey. Plaintiffs' Motion for Leave to File Response 57 is GRANTED. Plaintiffs may file a Response to Defendants' Notice of Recent Authority 56 . This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 03/11/2013)
03/11/2013	59	REPLY SUGGESTIONS to motion re 43 MOTION for judgment on the pleadings <i>Response to Defendants' Notice of Recent Authority</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. (Attachments: # 1 Exhibit 1)(Related document(s) 43) (Luby, Joseph) (Entered: 03/11/2013)
03/14/2013	60	CERTIFICATE OF SERVICE by All Plaintiffs <i>Certificate of Service of Plaintiffs' Expert Designation and Disclosure</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David




		Zink.(Luby, Joseph) (Entered: 03/14/2013)
03/25/2013	61	ORDER by Judge Nanette Laughary. Defendants Motion for Judgment on the Pleadings 43 is DENIED.(Smith, Fran) (Entered: 03/25/2013)
03/26/2013	62	CERTIFICATE OF SERVICE by All Defendants re 28 Scheduling Order, 45 Certificate of Service <i>Certificate of Service of Supplemental Answers to Interrogatories</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. Related document: 28 Scheduling Order, 45 Certificate of Service filed by John Does 2-40, David R. Dormire, Terry Russell, George A. Lombardi.(Spillane, Michael) (Entered: 03/26/2013)
03/27/2013	63	Joint MOTION for extension of time to complete discovery <i>and amend scheduling order</i> filed by Elizabeth Unger Carlyle on behalf of All Parties. Suggestions in opposition/response due by 4/15/2013 unless otherwise directed by the court. (Carlyle, Elizabeth) (Entered: 03/27/2013)
04/03/2013	65	ORDER entered by Judge Nanette Laughrey. The parties' Joint Motion for Extension of Time 63 is GRANTED. The following deadlines are amended: Defendants' expert witnesses must be designated and their reports filed by 4/5/2013; discovery motions are due on or before 4/12/2013; discovery must be complete by 5/9/2013; dispositive motions are due on or before 5/29/2013. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 04/03/2013)
04/04/2013	66	ORDER SETTING TELECONFERENCE entered by Judge Nanette Laughrey. A Telephone Conference is set for 4/5/2013 at 02:00 PM regarding a discovery dispute. The parties shall email to the Court at Fran_Smith@mow.uscourts.gov, a one page summary of the dispute. The summary shall not exceed one page and should be sent to the Court no later than 2:00 PM on 4/4/2013. The parties shall call dial in number 877-336-1274, access code: 2707681 to participate in the conference. This is a TEXT ONLY ENTRY. No document is attached. (Kanies, Renea) (Entered: 04/04/2013)
04/05/2013	68	MINUTE ENTRY. Teleconference held before Judge Nanette Laughrey on April 5, 2013. Time: 2:00 p.m. 2:15 p.m. Comments: Teleconference held regarding a discovery dispute. The Court ordered Defendants to provide their expert's report to Plaintiffs' counsel. If there remains an issue regarding the details of the

		<p>information the expert provided Defendants, counsel may contact the Court for another teleconference. The Court sustained Plaintiffs' objection regarding Defendants' refusal to provide all records relating to the protocol on Supremacy Clause grounds, and ordered the documents produced, under seal, for attorneys eyes only, by April 10, 2012. Defendants requested the Court review the document in camera before the document is provided to Plaintiff. The Court denied the request. (Court Reporter: None) TEXT ENTRY ONLY - NO DOCUMENT ATTACHED. (Kanies, Renea) (Entered: 04/05/2013)</p>
04/05/2013	69	<p>CERTIFICATE OF SERVICE by All Defendants re 65 Order on Motion for Extension of Time to Complete Discovery, <i>Certificate of Service of Summary of Factual and Legal Opinions of M3</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. Related document: 65 Order on Motion for Extension of Time to Complete Discovery,.(Spillane, Michael) (Entered: 04/05/2013)</p>
04/10/2013	72	<p>MOTION to stay re 68 Telephone Conference,,, <i>Order</i> filed by Stephen David Hawke on behalf of All Defendants. Suggestions in opposition/response due by 4/29/2013 unless otherwise directed by the court. (Related document(s) 68) (Hawke, Stephen) (Entered: 04/10/2013)</p>
04/10/2013	73	<p>COPY OF PETITION for writ of mandamus filed with the Eighth Circuit Court of Appeals by George A. Lombardi. (Attachments: # 1 Exhibit State Statute, # 2 Exhibit affidavit, # 3 Exhibit District Court order, # 4 Exhibit Execution Protocol)(Spillane, Michael) Modified on 4/11/2013 to change docket text to reflect that this is a copy of documents filed at the Court of Appeals (James, Carrie). (Entered: 04/10/2013)</p>
04/11/2013	74	<p>SUGGESTIONS in opposition re 72 MOTION to stay re 68 Telephone Conference,,, <i>Order</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 4/29/2013 unless otherwise directed by the court (Related document(s) 72) (Luby, Joseph) (Entered: 04/11/2013)</p>

04/11/2013	75	NOTICE of filing Case number assigned to Petition for Writ of Mandamus 13-1801, US Court of Appeals re 73 Petition for writ of mandamus (James, Carrie) (Entered: 04/11/2013)
04/11/2013	76	ORDER entered by Judge Nanette Laughrey. Defendants are ordered to provide Plaintiffs with M3's expert report in accordance with the Court's order of 04/05/2013 68 . This is a TEXT ONLY ENTRY. No document is attached. (Kanies, Renea) (Entered: 04/11/2013)
04/15/2013	77	ORDER SETTING TELECONFERENCE. A Telephone Conference is set for today, 4/15/2013, at 11:30 AM, before District Judge Nanette K. Laughrey re continuing discovery dispute and request for stay. Dial in # 877-336-1828; Access Code: 8503666. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 04/15/2013)
04/15/2013	78	Minute Entry. Proceedings held before District Judge Nanette K. Laughrey: TELEPHONE CONFERENCE held on 4/15/2013. To order a transcript of this hearing please contact Tania Lock, 573-556-7558. (Lock, Tania) (Entered: 04/15/2013)
04/16/2013	79	ORDER entered by Judge Nanette Laughrey. Defendants are requested to provide a copy of the full execution protocol to the Court for in camera review by 4/18/2013. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 04/16/2013)
04/16/2013	80	ORDER SETTING TELECONFERENCE. A Telephone Conference is set for 4/17/2013, at 11:30 AM, before District Judge Nanette K. Laughrey re continuing discovery dispute and request for stay. Dial in # 877-336-1828; Access Code: 8503666. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 04/16/2013)
04/17/2013	81	Minute Entry. Proceedings held before District Judge Nanette K. Laughrey: TELEPHONE CONFERENCE held on 4/17/2013. Court taking matter under advisement. To order a transcript of this hearing please contact Katie Wirt, 816-512-5608. (Russel, Jeri) (Entered: 04/17/2013)
04/18/2013	82	ORDER entered by Judge Nanette Laughrey. On the basis of Defendants' statement during the phone conference of 4/17/13 that a redacted protocol was produced during discovery in the <i>Ringo</i> case, Defendants are requested to produce a copy of the redacted protocol


		<p>supplied in <i>Ringo</i> for the Court's review in camera. The redacted protocol shall be supplied to the Court on or before 4/22/13. This is a TEXT ONLY ENTRY. No document is attached.(Smith, Fran) Modified on 4/18/2013 to correct conference date (Russel, Jeri). (Entered: 04/18/2013)</p>
04/18/2013		<p>NOTICE OF DOCKET MODIFICATION. A modification has been made to the docket entry filed on 04/18/13 as Document No. 82, Order. Docket text was amended to correct date of pretrial conference. This is a text entry only - no document is attached. (Russel, Jeri) (Entered: 04/18/2013)</p>
04/18/2013	<u>83</u>	<p>MOTION for protective order filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 5/6/2013 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit Exhibit to Motion For Protective Order)(Spillane, Michael) (Entered: 04/18/2013)</p>
04/22/2013	<u>84</u>	<p>MOTION to compel <i>expert report of M3 or to bar his testimony</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 5/9/2013 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit 1 - Professional Services Agreement, # <u>2</u> Exhibit 2 - Memo or Email from M3, # <u>3</u> Exhibit 3 - Defendant Dormire Answers to Interrogatories, # <u>4</u> Exhibit 4 - "Summary of Facts and Opinions" of M3, # <u>5</u> Exhibit 5 - "Preparation and Administration of Chemicals for Lethal Injection", # <u>6</u> Exhibit 6 - Report of Mark J.S. Heath, M.D.)(Luby, Joseph) (Entered: 04/22/2013)</p>
04/25/2013	<u>85</u>	<p>SUGGESTIONS in opposition re <u>83</u> MOTION for protective order filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 5/13/2013 unless otherwise directed by the court (Attachments: # <u>1</u> Exhibit 1 - Defendants' Response to Plaintiffs' Request for Production of Documents)(Related document(s) <u>83</u>) (Luby, Joseph) (Entered: 04/25/2013)</p>
04/25/2013	86	<p>ORDER SETTING TELECONFERENCE entered by Judge Nanette Laughrey. A Telephone Conference is set for 4/25/2013 at 01:00 PM</p>

		regarding the death penalty protocol. The parties shall call dial in # 877-336-1828; access code: 8503666, to participate. (Kanies, Renea) (Entered: 04/25/2013)
04/25/2013	87	DESIGNATION <i>Withdrawal of Designation of Expert Witness</i> by All Defendants filed by Susan D. Boresi on behalf of Defendants George A. Lombardi, David R. Dormire, John Does 2-40, Terry Russell.(Boresi, Susan) (Entered: 04/25/2013)
04/25/2013	88	MINUTE ENTRY. Teleconference held before Judge Nanette Laughrey on April 25, 2013. Time: 1:02 p.m. 1:10 p.m. Comments: Teleconference held regarding the Courts Order of April 5, 2013, compelling discovery of the execution protocol. Due to the complicated procedural posture of Defendants' Appeal of the April 5th Order and Defendants' Motion for Stay Pending Appeal, the Court proposes the following: 1) Defendants dismiss the Appeal and related Motion for Stay; 2) the Court vacates the April 5th Order; and 3) the Court will address Defendants' Motion for a Protective Order on the basis of the parties' agreement that it contains the relevant arguments with regards to production of the protocol. Regarding Plaintiffs' Motion to Compel M3's Expert Witness Report, the Court finds the motion to be moot without prejudice in light of Defendants' redesignation of M3 as fact witness only, with the understanding that objections to M3's testimony may be raised at trial or on summary judgment. The Court's Order of April 5, 2013 68 is hereby VACATED. Once the appeal and motion for stay are dismissed, the Court will address Defendants' Motion for protective order. Plaintiff's Motion to Compel 84 is DISMISSED as moot without prejudice. Appearances: Plaintiff by: Elizabeth Carlyle, Joseph Luby, and John Simon. Defendants by: Susan Boresi, Michael Spillane and David Hansen. Court Reporter. Katie Wirt. CRD: Renea Kanies (TEXT ENTRY ONLY - NO DOCUMENT ATTACHED) To order a transcript of this hearing please contact Katie Wirt, 816-512-5608. (Kanies, Renea) (Entered: 04/25/2013)
04/26/2013	89	CERTIFICATE OF SERVICE by All Defendants filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael) (Entered: 04/26/2013)
04/26/2013	90	RESPONSE to motion re 72 MOTION to stay re 68 Telephone Conference,,, <i>Order</i> filed by Stephen David Hawke on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. Reply suggestions due by 5/13/2013

		unless otherwise directed by the court (Hawke, Stephen) (Entered: 04/26/2013)
04/29/2013	91	ORDER entered by Judge Nanette Laughrey. Pursuant to Defendants' Response of 4/26/13 [Doc. # 90], Defendants' Motion to Stay 72 is dismissed as moot. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 04/29/2013)
04/30/2013	92	MOTION for extension of time to complete discovery filed by Joseph Luby on behalf of All Parties. Suggestions in opposition/response due by 5/17/2013 unless otherwise directed by the court. (Luby, Joseph) (Entered: 04/30/2013)
05/02/2013	93	ORDER entered by Judge Nanette Laughrey. The Parties' Joint Motion for Extension of Time 92 is GRANTED. The deadlines are amended as follows: Expert witness depositions are due on or before 6/8/13; Discovery deadline is extended to 6/8/13; Discovery-related motions are due on or before 6/1/13; Dispositive Motions are due on or before 6/28/13. The pre-trial conference memo remains due on 9/30/13, and trial is still set for 10/7/13. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 05/02/2013)
05/02/2013	94 	MOTION for protective order <i>concerning identity of execution team members</i> filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 5/20/2013 unless otherwise directed by the court. (Attachments: # 1  Exhibit Exhibit 1 (Letter and Documents), # 2 Exhibit 2 (Proposed protective order deleted)(Spillane, Michael) Modified on 5/9/2013 to delete attachment #2 proposed protective order(Lock, Tania). (Entered: 05/02/2013)
05/06/2013	96	NOTICE of filing Judgment and mandate from 8th Circuit Court of Appeals on appeal 13-1801, In Re: George Lombardi (Attachments: # 1 Mandate)(James, Carrie) (Entered: 05/06/2013)
05/08/2013	98	SUGGESTIONS in opposition re 94  MOTION for protective order <i>concerning identity of execution team members</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 5/28/2013

		<p>unless otherwise directed by the court (Attachments: # 1 Exhibit 1 - Professional Medical Services Agreement, # 2 Exhibit 2 - "Summary of Facts and Opinions of M3", # 3 Exhibit 3 - Supplemental Interrogatory Response of M3, # 4 Exhibit 4 - Plaintiffs' proposed protective order of Feb. 21, 2013, # 5 Exhibit 5 - "Preparation and Administration of Chemicals for Lethal Injection") (Related document(s) 94 R) (Luby, Joseph) (Entered: 05/08/2013)</p>
05/09/2013		<p>NOTICE OF DOCKET MODIFICATION. A modification has been made to the document filed on 05/02/2013 as Document No. 94-2, Proposed Protective Order. The proposed order attached to the motion has been deleted. Per Administrative Procedures any proposed orders are to be emailed to the Courtroom Deputy in Word format. Notified attorney by email. This is a text entry only - no document is attached. (Lock, Tania) (Entered: 05/09/2013)</p>
05/21/2013	99	<p>REPLY SUGGESTIONS to motion re 94 R MOTION for protective order <i>concerning identity of execution team members</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. (Attachments: # 1 R Exhibit ABA & AMA documents, # 2 Exhibit Section 546.720)(Related document(s) 94 R) (Spillane, Michael) (Entered: 05/21/2013)</p>
05/29/2013	100	<p>Joint MOTION for extension of time to complete discovery <i>and for extensions of related deadlines</i> filed by Joseph Luby on behalf of All Parties. Suggestions in opposition/response due by 6/17/2013 unless otherwise directed by the court. (Luby, Joseph) (Entered: 05/29/2013)</p>
05/31/2013	101 R	<p>ORDER entered by Judge Nanette Laughrey. Defendant's Motion for a Protective Order 83 is GRANTED in part and DENIED in part.(Smith, Fran) (Entered: 05/31/2013)</p>
06/05/2013	102	<p>ORDER entered by Judge Nanette Laughrey. The parties' Joint Motion for Extension of Time 100 is GRANTED. The discovery motion deadline shall be extended until 23 days after the Court resolves the pending protective order motion regarding M3 94 R ; the discovery completion deadline shall be extended until 30 days after the Court resolves the motion; dispositive motions shall be due 50 days after the Court resolves the motion. This is a TEXT ONLY ENTRY. No document is attached.(Smith, Fran) (Entered: 06/05/2013)</p>

06/07/2013	103	CERTIFICATE OF SERVICE by All Defendants <i>Defendant's Certificate of Service of Execution Protocol Pages Required by Court Order</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael) (Entered: 06/07/2013)
06/18/2013	104 R	ORDER entered by Judge Nanette Laughrey. Defendants' Motion for Protective Order 94 R is DENIED as it relates to the identity of M3 but GRANTED as it relates to the identity of the other members of the execution team.(Smith, Fran) (Entered: 06/18/2013)
06/25/2013	105	DESIGNATION of witnesses stating M3 and other members of the execution team will not be called as defense witnesses by David R. Dormire. (Spillane, Michael) (Entered: 06/25/2013)
06/27/2013	106	MOTION for protective order concerning identities of members of the execution team filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 7/15/2013 unless otherwise directed by the court. (Spillane, Michael) (Entered: 06/27/2013)
06/28/2013	107	SUGGESTIONS in opposition re 106 MOTION for protective order concerning identities of members of the execution team filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 7/15/2013 unless otherwise directed by the court (Related document(s) 106) (Luby, Joseph) (Entered: 06/28/2013)
07/01/2013	108	MOTION for discovery for leave to disclose sealed documents to expert, and to utilize depositions from previous litigation filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 7/18/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit A - Protective order from Ringo v. Lombardi)(Luby, Joseph) (Entered: 07/01/2013)
07/08/2013	109	NOTICE to take deposition of M2 filed by John William Simon on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo,

		William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink.(Simon, John) (Entered: 07/08/2013)
07/17/2013	110	CERTIFICATE OF SERVICE by All Defendants filed by Susan D. Boresi on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Boresi, Susan) (Entered: 07/17/2013)
07/19/2013	111	CERTIFICATE OF TRANSMISSION OF DEPOSITION Taken on July 11, 2013 of M3 (Martin, Jan) (Entered: 07/19/2013)
07/23/2013	112 	ORDER entered by Judge Nanette Laughrey. Defendant's Motion for Protective Order concerning identities of members of the execution team 106 is GRANTED. Although Plaintiffs object to language in Paragraph 6 that they consider overbroad, the Court determines that it is appropriate if implemented by the parties as stated. If the Court determines at a later time that this language is interfering with the litigation process, the Court will amend the order to correct the situation.(Smith, Fran) (Entered: 07/23/2013)
07/23/2013	113	ORDER entered by Judge Nanette Laughrey. Plaintiff's unopposed Motion for Discovery 108 is GRANTED. Plaintiffs are granted leave to share with their expert the discovery materials that the Court recently ordered to be sealed and revealed to "attorneys eyes only," and to make use of the depositions of M2 and M3 that were designated as "confidential" in the <i>Ringo</i> litigation. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 07/23/2013)
07/25/2013	114	NOTICE OF TELEPHONE CONFERENCE - This is the official notice for this hearing. Telephone Conference set for 8/12/2013 at 11:15 AM in Magistrate Courtroom 3A, Jefferson City (MJW) before Magistrate Judge Matt J. Whitworth. Counsel should call 1-877-336-1829, access code 1233420 to participate in the call. The conference is to discuss possible pre-trial mediation. Questions can be directed to jackie_price@mow.uscourts.gov TEXT ENTRY ONLY. No document attached. (Price, Jackie) (Entered: 07/25/2013)
08/02/2013	115	CERTIFICATE OF SERVICE by All Defendants filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell.(Spillane, Michael) (Entered: 08/02/2013)

08/07/2013	<u>116</u>	MOTION for summary judgment filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 9/3/2013 unless otherwise directed by the court (Spillane, Michael) (Entered: 08/07/2013)
08/07/2013	<u>117</u>	SUGGESTIONS in support re <u>116</u> MOTION for summary judgment filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. (Attachments: # <u>1</u> Exhibit Exhibit 1 Execution Protocol, # <u>2</u> Exhibit Exhibit 2 Affidavit of Director, # <u>3</u> Exhibit Exhibit 3 Report of Dr. Heath, # <u>4</u> Exhibit Exhibit 4 Deposition of Dr. Heath)(Related document(s) <u>116</u>) (Spillane, Michael) (Entered: 08/07/2013)
08/08/2013	<u>118</u>	ORDER SETTING MONDAY, OCTOBER 7, 2013, TRIAL DOCKET (TWO-WEEK DOCKET).(Smith, Fran) (Entered: 08/08/2013)
08/12/2013	119	Minute Entry. Proceedings held before Magistrate Judge Matt J. Whitworth: TELEPHONE CONFERENCE held on 8/12/2013. Attorney appearances noted on the record. Court schedules a mediation for September 18 at 10 am in Potosi. The AG's office will take care of the logistics. TEXT ENTRY ONLY - no document attached. To order a transcript of this hearing please contact Jackie Price, 573-636-4015. (Price, Jackie) FTR 11:09 - 11:30 am (Entered: 08/13/2013)
08/13/2013	120	NOTICE OF MEDIATION - This is the official notice for this hearing. Settlement Conference set for 9/18/2013 10:00 AM before Magistrate Judge Matt J. Whitworth at Potosi Correctional Center. TEXT ENTRY ONLY - no document attached. (Price, Jackie) (Entered: 08/13/2013)
08/14/2013	<u>121</u>	NOTICE of filing <i>Notice that the Missouri Supreme Court has set execution dates for Plaintiffs Nicklasson and Franklin</i> by David R. Dormire (Attachments: # <u>1</u> Exhibit Execution Warrants for Plaintiffs Nicklasson & Franklin)(Spillane, Michael) (Entered: 08/14/2013)
08/18/2013	<u>122</u>	MOTION for leave to file excess pages <i>concerning motion to amend the scheduling order</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 9/6/2013 unless otherwise directed by the court. (Attachments: # <u>1</u> Motion to amend scheduling order, # <u>2</u> Exhibit 1 - Deposition of Dave Dormire(excerpt), # <u>3</u> Exhibit 2 - Declaration of Mark J.S. Heath, M.D., # <u>4</u> Exhibit 3 - Dormire Answers to Interrogatories, # <u>5</u> Exhibit 4 - Execution Protocol of August 1, 2013, # <u>6</u> Exhibit 5 -

		Affidavit of Dave Dormire, # 7 Exhibit 7 - Propfol label)(Luby, Joseph) (Entered: 08/18/2013)
08/19/2013	123	ORDER entered by Judge Nanette Laughrey. Plaintiffs' Motion for Leave to File Excess Pages in Plaintiffs' Motion to Amend Scheduling Order 122 is GRANTED. Plaintiffs' Motion to Amend Scheduling Order shall not exceed nineteen (19) pages exclusive of facts presented. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 08/19/2013)
08/19/2013	124 R	MOTION for extension of time <i>Motion to Amend Scheduling Order</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 9/6/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit 1 - Deposition of Dave Dormire (excerpt), # 2 Exhibit 2 - Declaration of Mark J.S. Heath, M.D., # 3 Exhibit 3 - Dormire Answers to Interrogatories, # 4 Exhibit 4 - Lethal Injection Protocol of August 1, 2013, # 5 Exhibit 5 - Affidavit of Dave Dormire, # 6 R Notice of Exhibit Attachment regarding Exhibit 6 (sealed exhibit) Copy of Sealed Exhibit 6 received in Clerks Office on 8/20/2013, # 7 Exhibit 7 - Propfol label)(Luby, Joseph) (Entered: 08/19/2013)
08/26/2013	125	Motion for Leave to appear as Amicus Curiae entered by Justin M. Dean on behalf of Fresenius Kabi USA, LLC. (Dean, Justin) Modified on 8/28/2013 to correct docket entry event (Russel, Jeri). (Entered: 08/26/2013)
08/26/2013	126	Suggestions in Support of Motion for Amicus Curiae 125 entered by Justin M. Dean on behalf of Fresenius Kabi USA, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit 1, # 3 Exhibit 2)(Dean, Justin) Modified on 8/28/2013 (Russel, Jeri). (Entered: 08/26/2013)
08/28/2013	127	ORDER entered by Judge Nanette Laughrey. Fresenius Kabi USA, LLC's Motion to Appear as Amicus Curiae 125 is DENIED without prejudice. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 08/28/2013)
08/28/2013	128	ORDER SETTING TELECONFERENCE. A Telephone Conference is set for 8/30/2013, at 09:00 AM, before District Judge Nanette K. Laughrey regarding pending motion (Doc. 124). Dial in number is 877-336-1828; Access Code: 8503666. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 08/28/2013)

08/29/2013	129	AMENDED ORDER SETTING TELECONFERENCE. The Telephone Conference previously set for 8/30/2013, at 09:00 AM, before District Judge Nanette K. Laughrey, is RESET for 3:00 PM, same date. Dial in number is 877-336-1828; Access Code: 8503666. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 08/29/2013)
08/29/2013	130 R	MOTION for order <i>appointing next friend</i> filed by Elizabeth Unger Carlyle on behalf of Cecil Clayton. Suggestions in opposition/response due by 9/16/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit A Letter from Dr. William Logan, # 2 Exhibit Letter from Dr. Daniel Foster)(Carlyle, Elizabeth) (Entered: 08/29/2013)
08/30/2013	131	MINUTE ENTRY. Teleconference held before Judge Nanette Laughrey on August 30, 2013. Time: 3:00 p.m. 3:07 p.m. Comments: Teleconference held regarding Plaintiffs Motion to Amend Scheduling Order 124 R . The Court stayed the deadline for plaintiffs to respond to the pending motion for summary judgment. Defendants shall respond to the Motion to Amend Scheduling order by September 6, 2013, and plaintiffs reply is due by September 13, 2013. Appearances: Plaintiff by: Elizabeth Carlyle, Joseph Luby, John Simon, and Kathryn Parish. Defendants by: Susan Boresi, Michael Spillane and Matt Briesacher. Court Reporter. Katie Wirt. CRD: Renea Kanies (TEXT ENTRY ONLY NO DOCUMENT ATTACHED) To order a transcript of this hearing please contact Katie Wirt, 816-512-5608. (Matthes, Renea) (Entered: 09/03/2013)
09/06/2013	132	NOTICE OF CANCELLATION: Per Magistrate Whitworth, the mediation scheduled for September 18, 2013 has been CANCELLED. At this time, the mediation is not rescheduled. TEXT ENTRY ONLY - no document attached. (Price, Jackie) (Entered: 09/06/2013)
09/06/2013	133	SUGGESTIONS in opposition re 124 R MOTION for extension of time <i>Motion to Amend Scheduling Order</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. Reply suggestions due by 9/23/2013 unless otherwise directed by the court (Attachments: # 1 Exhibit May 15, 2012 protocol)(Related document(s) 124 R) (Spillane, Michael) (Entered: 09/06/2013)
09/09/2013	134	ORDER entered by Judge Nanette Laughrey. Plaintiff Clayton's Motion for Appointment of Next Friend 130 R is DENIED without

		prejudice. Plaintiff's Motion is moot because the mediation scheduled for 09/18/2013, is cancelled. This is a TEXT ONLY ENTRY. No document is attached. (Smith, Fran) (Entered: 09/09/2013)
09/09/2013	135 R	REPLY SUGGESTIONS to motion re 124 R MOTION for extension of time <i>Motion to Amend Scheduling Order</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. (Attachments: # 1 Exhibit 8 - Deposition of Mark J.S. Heath, M.D., # 2 Notice of Exhibit Attachment Notice concerning Exhibit 9 (sealed))(Related document(s) 124 R) (Luby, Joseph) A copy of Sealed Exhibit 9 was received 9/10/2013 and said Exhibit is being maintained in the Clerk's Office. (Martin, Jan). (Entered: 09/09/2013)
09/09/2013	136	MOTION for leave to file <i>Supplement Discovery Disclosures by Adding an Expert Witness</i> filed by Susan D. Boresi on behalf of All Defendants. Suggestions in opposition/response due by 9/26/2013 unless otherwise directed by the court. (Boresi, Susan) (Entered: 09/09/2013)
09/11/2013	137	SUGGESTIONS in support re 124 R MOTION for extension of time <i>Motion to Amend Scheduling Order (Supplemental Reply)</i> filed by Elizabeth Unger Carlyle on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. (Related document(s) 124 R) (Carlyle, Elizabeth) (Entered: 09/11/2013)
09/19/2013	138	CERTIFICATE OF SERVICE by All Plaintiffs <i>Second Interrogatories to Dormire, Second Request for Production</i> filed by Elizabeth Unger Carlyle on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T.

		Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink.(Carlyle, Elizabeth) (Entered: 09/19/2013)
09/24/2013	139	STATUS REPORT by George A. Lombardi. (Attachments: # 1 Exhibit 9-24-13 execution protocol)(Spillane, Michael) (Entered: 09/24/2013)
09/25/2013	140 R	ORDER entered by Judge Nanette Laughrey. Plaintiffs Motion to Amend the Scheduling Order 124 R is granted in part and denied in part.(Smith, Fran) (Entered: 09/25/2013)
09/26/2013	141	SUGGESTIONS in opposition re 136 MOTION for leave to file <i>Supplement Discovery Disclosures by Adding an Expert Witness</i> filed by Elizabeth Unger Carlyle on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 10/15/2013 unless otherwise directed by the court (Attachments: # 1 Exhibit A Mo. Sup. Ct. Order)(Related document(s) 136) (Carlyle, Elizabeth) (Entered: 09/26/2013)
10/04/2013	142	SUGGESTIONS in support re 136 MOTION for leave to file <i>Supplement Discovery Disclosures by Adding an Expert Witness Reply Suggestions in Support of Motion</i> filed by Michael Joseph Spillane on behalf of Defendants John Does 2-40, David R. Dormire, George A. Lombardi, Terry Russell. (Attachments: # 1 Exhibit Report of Dr. Dershwitz)(Related document(s) 136) (Spillane, Michael) (Entered: 10/04/2013)
10/16/2013	143	MOTION to dismiss for lack of jurisdiction filed by Michael Joseph Spillane on behalf of All Defendants. Suggestions in opposition/response due by 11/4/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit Statement of the Governor of Missouri)(Spillane, Michael) (Entered: 10/16/2013)
10/22/2013	144	STATUS REPORT by George A. Lombardi. (Attachments: # 1 Exhibit 10-18-13 protocol)(Spillane, Michael) (Entered: 10/22/2013)
10/24/2013	145	MOTION for extension of time to file response/reply as to 140 R Order on Motion for Extension of Time, 143 MOTION to dismiss for lack of jurisdiction filed by Elizabeth Unger Carlyle on behalf of

		All Plaintiffs. Suggestions in opposition/response due by 11/12/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit 1 Press release)(Related document(s) 140 R , 143) (Carlyle, Elizabeth) (Entered: 10/24/2013)
10/25/2013	146	CERTIFICATE OF SERVICE by All Plaintiffs <i>Third Set of Interrogatories to Defendant Dormire and Third Request for Production of Documents to All Defendants</i> filed by Joseph Luby on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink.(Luby, Joseph) (Entered: 10/25/2013)
11/08/2013	147	MOTION for leave to file <i>Amended Complaint</i> filed by Joseph Luby on behalf of All Plaintiffs. Suggestions in opposition/response due by 11/25/2013 unless otherwise directed by the court. (Attachments: # 1 Exhibit A - Amended Complaint, # 2 Exhibit A1 - Nixon Press Release, # 3 Exhibit A2 - Execution Protocol 10-18-2013, # 4 Exhibit A3 - Dept of Corrections Press Release, # 5 Exhibit A4 - Dershwitz Report, # 6 Exhibit A5 - Declaration of Mark Heath, # 7 Exhibit A6 - Affidavit of Larry Sasich, # 8 Exhibit B - Order in Hill (Ga.))(Luby, Joseph) (Entered: 11/08/2013)
11/08/2013	148	SUGGESTIONS in opposition re 143 MOTION to dismiss for lack of jurisdiction filed by Elizabeth Unger Carlyle on behalf of Plaintiffs David M. Barnett, Russell E. Bucklew, Mark A. Christeson, Cecil Clayton, Reginald Clemons, Andre Cole, Jeffrey R. Ferguson, Joseph Paul Franklin, Paul T. Goodwin, John C. Middleton, Allen L. Nicklasson, Roderick Nunley, Earl Ringo, William Rousan, Herbert Smulls, Walter T. Storey, Leon Taylor, Michael A. Taylor, John E. Winfield, Michael Worthington, David Zink. Reply suggestions due by 11/25/2013 unless otherwise directed by the court (Related document(s) 143) (Carlyle, Elizabeth) (Entered: 11/08/2013)

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