

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES H. LIMBRIGHT and  
HENRY J. LIMBRIGHT,

Judgment Plaintiffs,

v.

Case Number 08-12336  
Honorable David M. Lawson

GEORGE HOFMEISTER, KAY RAMSAY  
HOFMEISTER, NELSON CLEMMENS, as  
Trustee of the GEORGE S. HOFMEISTER  
FAMILY TRUST f/b/o MEGAN G.  
HOFMEISTER, NELSON CLEMMENS, as  
Trustee of the GEORGE S. HOFMEISTER  
FAMILY TRUST f/b/o SCOTT R.  
HOFMEISTER, and NELSON CLEMMENS, as  
Trustee of the GEORGE S. HOFMEISTER  
FAMILY TRUST f/b/o JAMIE S.  
HOFMEISTER,

Judgment Defendants,

-and-

JOHN DOE I, as Trustee of the MEGAN G.  
HOFMEISTER IRREVOCABLE TRUST,  
JOHN DOE II, as Trustee of the SCOTT R.  
HOFMEISTER IRREVOCABLE TRUST, and  
JOHN DOE III, as Trustee of the JAMIE S.  
HOFMEISTER IRREVOCABLE TRUST,

Supplementary Defendants.

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**ORDER GRANTING THE DEFENDANTS' MOTION TO AMEND OR CORRECT  
ORDER TRANSFERRING CASE TO THE EASTERN DISTRICT OF KENTUCKY AND  
DENYING THE PLAINTIFFS' MOTION FOR RECONSIDERATION**

The matter is before the Court on the defendants' Rule 60(a) and Rule 59(e) motion for clarification of the Court's March 31, 2009 opinion and order and on the plaintiffs' motion for reconsideration. In their motion, the defendants seek to clarify whether the Court intended to

dismiss the remaining supplementary defendants – i.e., the three trusts of Megan G., Scott R., and Jamie S. Hofmeister – and whether the Court ruled on the defendants’ request for a more definite statement under Rule 12(e) of the Federal Rules of Civil Procedure. The plaintiffs seek reconsideration of the merits of the Court’s March 31, 2009 opinion and order urging that the Court has personal jurisdiction over the children’s trusts, that the Hofmeister children are not indispensable parties under Rule 19, and that the transfer of venue to the Eastern District of Kentucky was not warranted.

The Court has considered the parties’ arguments and will grant the defendants’ motion for clarification. The Court did not intend to dismiss the Hofmeister children’s trusts from the case because the trustee for the three children’s trusts, George Hofmeister, is clearly subject to personal jurisdiction of this Court. Further, the Court did not intend to rule on the issue of adequacy of the plaintiffs’ allegations of fraud in the complaint. This issue is best left for a judge in the District Court for the Eastern District of Kentucky, to which the action has been transferred. Nor did the Court determine that the Hofmeister children were indispensable parties. It appears that the transferee court will have personal jurisdiction over the Hofmeister children, so that the question of their indispensability will be moot.

As for the plaintiffs’ motion for reconsideration, the Court finds it without merit. Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(g)(1) when the moving party shows (1) a “palpable defect,” (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A “palpable defect” is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep’t of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted).

The plaintiffs here have not demonstrated any mistake of fact or law that amounts to a

“palpable defect.” Rather, the plaintiffs seek to re-litigate the questions whether the Court had personal jurisdiction over the supplementary defendants and whether the transfer was appropriate. The Court notes that it has not ruled on whether the Hofmeister children were indispensable parties to this litigation at all. The Local Rules provide that “motions for rehearing or reconsideration which merely present the same issues ruled upon by the Court, either expressly or by reasonable implication, shall not be granted.” E.D. Mich. LR 7.1(g)(3). The Court will deny the motion for reconsideration.

It is **ORDERED** that the defendants’ motion for clarification of the Court’s March 31, 2009 order [dkt # 28] is **GRANTED**.

It is further **ORDERED** that the motion to dismiss the Hofmeister children’s trusts for lack of personal jurisdiction is **DENIED**.

It is further **ORDERED** that the plaintiffs’ motion for reconsideration [dkt # 32] is **DENIED**.

s/David M. Lawson  
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DAVID M. LAWSON  
United States District Judge

Dated: April 16, 2009

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 16, 2008.

s/Lisa M. Ware  
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LISA M. WARE

