

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CONNIE MCGIRR, et al.,

Plaintiffs,

v.

Case No. 164-464

THOMAS F. REHME, et al.,

Defendants.

ORDER DENYING WITHOUT PREJUDICE CHESLEY'S MOTION FOR TRANSFER OF FUNDS; DENYING WITHOUT PREJUDICE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; AND SETTING BRIEFING SCHEDULE

The court held a telephonic status conference on August 23, 2017, to discuss the degree to which pending motions have been mooted by recent case developments or the court has been removed of jurisdiction to consider them following the notice of appeal to the Sixth Circuit.

As discussed during the conference and agreed by counsel, the court will deny without prejudice Chesley's Motion for Transfer of All Sequestered Funds to the Internal Revenue Service (Dkt. #101) in light of the divestiture of this court's jurisdiction to consider the motion by the pending appeal before the Sixth Circuit.

Counsel agreed that the pending Motion for Summary Judgment (Dkt. #115) was partially mooted by the agreed order of substitution, that the court lacked jurisdiction to consider the statute of limitations argument raised in the motion, but believed that the court could rule on the Kentucky Probate standing arguments. As it would amount to little more than an artificial exercise to address this relatively ancillary issue while the appeal is pending, the court in its discretion will deny without prejudice the motion for summary

judgment as well as the related Motion to Strike Expert Affidavit (Dkt. #122).

Plaintiffs expressed a view that the court retains jurisdiction to hear their pending motions (Dkts. ##99, 116, 126, 151), and the court now directs Plaintiffs to file a supplemental brief on or before **Friday, September 1, 2017**, explaining the basis for the court's continued jurisdiction over those issues while the appeal remains pending. Defendants are directed to file their response, if any, on or before **Monday, September 11, 2017**.

IT IS ORDERED that Chesley's Motion for Transfer of All Sequestered Funds to the Internal Revenue Service (Dkt. #101) is DENIED without prejudice pending the decision of the Sixth Circuit.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (Dkt. #115) is DENIED without prejudice pending the decision of the Sixth Circuit.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Strike Expert Affidavit (Dkt. #122) is DENIED without prejudice pending the decision of the Sixth Circuit.

IT IS FURTHER ORDERED that Plaintiffs to file a supplemental brief on or before **Friday, September 1, 2017**, explaining the basis for the court's jurisdiction to hear their pending motions (Dkts. ##99, 116, 126, 151).

IT IS FURTHER ORDERED that Defendants are directed to file their response, if any, on or before **Monday, September 11, 2017**.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: August 24, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 24, 2017, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522