

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION

JACK HAROLD JONES, et al

PLAINTIFFS

v.

NO. CV-2010-1118

RAY HOBBS, in his official capacity as
Acting Director of the Arkansas
Department of Correction; and

12/16/10 16:33:08
PAT O'BRIEN PULASKI CIRCUIT CLERK

ARKANSAS DEPARTMENT OF
CORRECTION

DEFENDANTS

ORDER

**GRANTING IN PART AND DENYING IN PART THE DEFENDANTS' MOTION
TO DISMISS, DENYING THE DEFENDANTS' MOTION FOR PROTECTIVE
ORDER, AND DENYING THE PLAINTIFFS' MOTION FOR SANCTIONS**

On the 30th day of November, 2010, came on for consideration the following motions: (1) Motion by Defendants Ray Hobbs and the Arkansas Department of Correction to Dismiss the Amended Complaint of Plaintiff Jones and the Complaints of the Intervenors; (2) Defendants' Motion for Protective Order Staying Discovery Pending the Court's Ruling on Their Motion to Dismiss; and (3) Plaintiffs' Motion for Sanctions, to Compel, and for Other Relief.

From the pleadings filed herein, the arguments presented to the Court during a hearing held on November 30, 2010, and all other things and matters properly before the Court, the Court makes the following findings. First, the Defendants' Motion to Dismiss should be granted to the extent that it seeks dismissal of the Plaintiffs' alleged claims asserting violations of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301, *et seq.*, the Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, and Arkansas'




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Nurse Practice Act, Ark. Code Ann. §§ 17-87-101, *et. seq.* Accordingly, "Claims" Two, Three, Four, Five, and Six of the Plaintiffs' Complaints are dismissed.

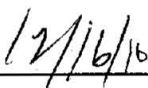
Second, the Defendants' Motion to Dismiss should be denied to the extent that it seeks dismissal of the Plaintiffs' claims asserting a violation of the Separation-of-Powers doctrine embodied in Arkansas' Constitution. Accordingly, "Claim One" of the Plaintiffs' Complaints is *not* dismissed.

Third, the Defendants' Motion for Protective Order Staying Discovery Pending the Court's Ruling on Their Motion to Dismiss and the Plaintiffs' Motion for Sanctions, to Compel, and for Other Relief are denied as moot.

IT IS SO ORDERED.



The Honorable Timothy Davis Fox
Circuit Judge



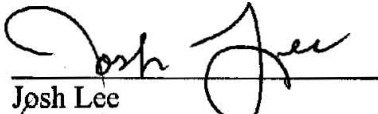
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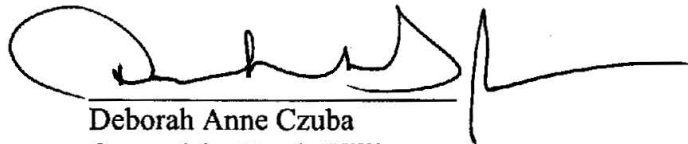
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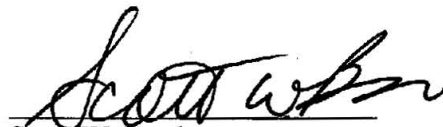
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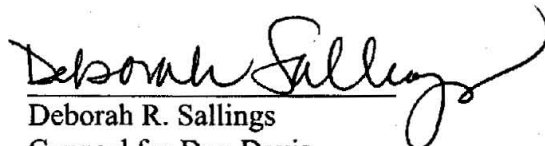
Counsel for the Defendants

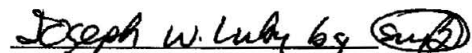
Approved as to form by:

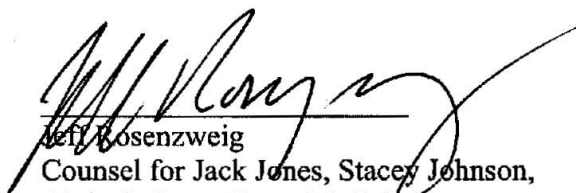

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