

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CAUSE NO. 49D11-0108-CP-1309

PAULA BRATTAIN, *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 RICHMOND STATE HOSPITAL, *et al.*,)
)
 Defendants.)
)
)
)

FILED
(167) JUL 31 2009
Elizabeth J. White
CLERK OF THE MARION CIRCUIT COURT

NOTICE OF APPEAL

Defendants, by counsel, Donald G. Banta, Deputy Attorney General, pursuant to Indiana Appellate Rule 9(A), respectfully give notice of an appeal from the Findings of Fact, Conclusions of Law and Judgment entered by the Marion Superior Court on July 28, 2009, and from all prior rulings made in this case, including but not limited to all rulings on motions to dismiss, rulings on class certification, rulings on motions for summary judgment, rulings on motions to reconsider, rulings on motions to exclude plaintiffs' expert and rulings on evidentiary matters during the trial and any hearings in this matter, including but not limited to all of the rulings identified by the Court in its Findings of Fact, Conclusions of Law and Judgment, entered July 28, 2009.

This appeal is from a final judgment. This appeal will be taken to the Indiana Court of Appeals pursuant to Appellate Rule 5(A).

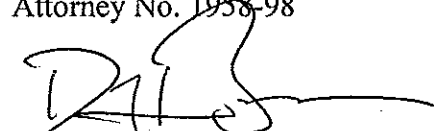
Pursuant to Indiana Appellate Rule 10, the defendants direct the Clerk of the Marion Superior Court to assemble the Clerk's Record, as defined in Indiana Appellate Rule 2(E).

Pursuant to Indiana Appellate Rules 9(F)(4) and 11, the defendants direct the Court Reporter of the Marion Superior Court to transcribe, certify and file with the Marion Superior Court all hearings of record, including exhibits, conducted in this matter, including but not limited to: the bench trial conducted March 10, 11, 12 and 13, 2009; the hearings conducted December 3, 1993; March 4, 1994; August 12, 1998; August 28, 1998; August 28, 2001; January 23, 2003; September 17, 2004; June 9, 2008; August 11, 2008; August 13, 2008; August 18, 2008; September 26, 2008; October 6, 2008; October 20, 2008 and February 4, 2009.

Respectfully Submitted,

GREGORY F. ZOELLER
Indiana Attorney General
Attorney No. 1958-98

By:



Donald G. Banta
Attorney No. 19261-49
Patricia Orloff Erdmann
Attorney No. 17664-49A
Laura L. Bowker
Attorney No. 11147-79
Deputy Attorneys General
Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been duly served upon the following persons by deposit in the U.S. mail, first class, on this 31st day of July, 2009.

John F. Kautzman
William A. Hasbrook
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BLACKWELL & HASBROOK
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DEFENDANTS' MOTION TO STAY JUDGMENT PENDING APPEAL

Defendants, by counsel, Donald G. Banta, Deputy Attorney General, pursuant to Ind. Trial Rule 62, respectfully move the Court to stay the judgment entered July 28, 2009, pending appeal. In support of this motion, defendants state:

1. The Court entered its final judgment in this matter on July 28, 2009.
2. On July 28, 2009, the court ordered that named plaintiffs and all other current or former State employees who during the Class period worked 40 hours per week in the job classifications identified as "split" by Plaintiffs' Exhibit C, except those explicitly excluded by the Court's Finding of Fact Nos. 103 and 104, have judgment against the State in the sum of \$42,422,788.00.
3. Payroll taxes would need to be withheld from the judgment and submitted to various tax authorities at the time of payment.
4. Defendants have contemporaneously filed herewith their Notice of Appeal of that judgment and of prior rulings in this matter.

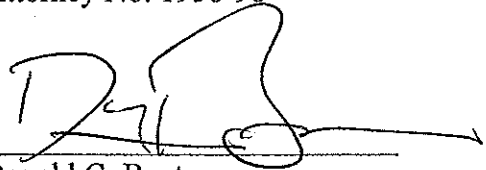
5. Ind. T.R. 62 authorizes this Court to stay the judgment pending the appeal of this matter. The defendants are not required to post an appeal bond because defendants are governmental organizations. Ind. T.R. 62(E). See also Ind. Code § 34-13-1-6 (judgment to be paid by appropriation).
6. The defendants have a meritorious appeal of the judgment as set forth in their prior briefing in this matter.
7. If the judgment were not stayed the defendants would be harmed in that defendants may be required to pay money to the plaintiffs which cannot be recovered from the plaintiffs should the judgment be reversed on appeal.

WHEREFORE, defendants respectfully move the Court to stay its judgment pending appeal, and to grant all other just and proper relief.

Respectfully Submitted,

GREGORY F. ZOELLER
Indiana Attorney General
Attorney No. 1958-98

By:

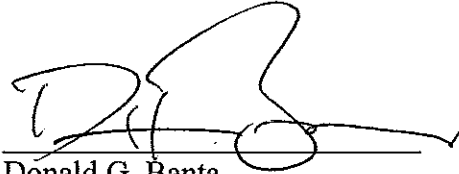

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