

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE  
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

LESLIE NEWMAN, Commissioner of the  
Tennessee Department of Commerce and  
Insurance, (Marie Murphy, Special Deputy  
Commissioner of Commerce and Insurance  
for the State of Tennessee)

Petitioner,

VS.

SMART DATA SOLUTIONS, LLC, a  
Tennessee limited liability company,  
AMERICAN TRADE ASSOCIATION, INC.,  
an Indiana nonprofit corporation with its  
principal place of business in Tennessee,  
AMERICAN TRADE ASSOCIATION, LLC,  
an Arkansas limited liability company, SERVE  
AMERICA ASSURANCE, a corporation  
with an unknown location, BART S. POSEY,  
SR., ANGIE POSEY, OBED W. KIRKPATRICK  
SR., LINDA KIRKPATRICK, RICHARD H.  
BACHMAN, KRISTY WRIGHT, WILLIAM M.  
WORTHY, II, and COLIN YOEUELL,

Respondents.

CLERK & MASTER  
DAVIDSON CO. CHANCERY CT.  
D.C. & M.

2011 APR 25 AM 11:13

FILED

NO. 10-507-III

Petition for Contempt v.  
Posey, Bachman, et al.

ORDER

This Petition for Contempt came before the Court on a conference to determine the matters to be scheduled preliminary to the evidentiary hearing on the alleged contempt and to set the same. After discussions with counsel, the Court enters the following schedule:

1. Preliminary Motions—On or before Friday, May 13, 2011, the Respondents shall file motions to dismiss and/or for a stay. Responses to the motion(s) shall be filed on

or before Friday, June 3, 2011. Replies are due by June 8, 2011. The motion(s) shall be heard on Friday, June 10, 2011, at 11:00 a.m.

2. Joinder Issue—If the question of whether the Petitioner’s claim of conversion may be joined with a petition for contempt is not an issue presented in the preliminary motion(s), the Court shall provide an order explaining how the parties shall proceed with the claims.

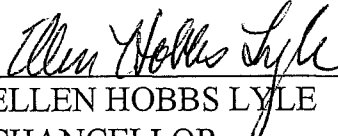
3. Discovery—The discovery deadline is September 16, 2011, for claims not dismissed and/or stayed.

4. Evidentiary Hearing—A three-day evidentiary hearing is set for October 24, 2011, at 9:00 a.m. for claims not dismissed and/or stayed.

5. All agreed that the process the Court shall use at the contempt hearing is to convene an evidentiary hearing in which the Commissioner will present the Court with proof to establish the four essential *Konvalinka* elements of civil contempt. The Alleged Contemnors will be provided an opportunity to cross examine the Commissioner’s witnesses. At the conclusion of the Commissioner’s proof, the Alleged Contemnors will be given the opportunity to make a motion to dismiss. At that point, the Court will determine if the Commissioner has made out a case of the four essential *Konvalinka* elements of civil contempt and, if so, shift the burden to the Alleged Contemnors to show cause why they should not be held in contempt. At which time the Alleged Contemnors would be provided an opportunity to present proof.

6. The Court has not resolved the questions stated in its March 23, 2011 Memorandum and Order, of whether a more streamlined list of the contempt charges shall be required of the Petitioner.

It is so ORDERED.

  
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ELLEN HOBBS LYLE  
CHANCELLOR

cc: Sarah Hiestand, Lyndsay Sanders, Robert Garfinkle  
Attorneys for the Petitioner

Nader Baydoun, Stephen Knight  
Attorneys for Bart S. Posey and Richard Bachman

Craig Gabbert, Jr., D. Alexander Fardon  
Attorneys for Evans, Petree, PC, William Hendricks, Jr., Russell  
Hensley and Theodore Kitai

Best Benefits Association, Inc.  
Quality Benefits Group, LLC