



apparently recognizing its mistake, the government submitted a *Motion to Amend Order at Docket Entry 29* using the above-captioned consolidated case number but inexplicably submitted a proposed corresponding amended order using Case No. 3:11-cv-00138. (Docket Entries 31 & 31-1). Without providing the Claimant an opportunity to respond to either motion, the Court granted both government motions and signed and entered the proposed orders on May 29, 2012 and May 31, 2012, respectively. (Docket Entries 29 & 31-1).

2. Under the *Local Civil Rules, U.S. District Court, Middle District of Tennessee*, Claimant has fourteen (14) days to respond in opposition to his adversary's motions. *LR7.01(b)*. Pursuant to Fed.R.Civ.P. 6(a)(1)(B), the Claimant's response to the government's amended motion regarding diversion of rental payments is not due until **June 14, 2012**.

3. Of the three parcels of real property identified in the amended order prepared by the government for the Court's signature, only the Highway 41N property generates any rental income. Claimant Bart Posey receives a monthly rental check from the State of Tennessee in the amount of \$6,270.00. As a result of the Court's amended order, the State's June 2012 installment payment was diverted from Claimant's account at First State Bank, White House, Tennessee. What the government failed to disclose in its motion to divert the State's payment is that the sum of \$6,270.00 includes much more than rent. Out of the State's monthly payment, Claimant is responsible for paying the utilities and maintaining the property which amounts to approximately \$2,500.00 per month. Claimant does not owe F & M Bank any money on the Highway 41 N property. However, the Highway 41N property was used by Claimant as collateral for a loan made by F & M Bank to him on a parcel of real property known as 209 New Chapel Road, Springfield, Tennessee.

4. Mr. Posey is presumed innocent of the criminal conduct obliquely mentioned but never explained in the government's forfeiture filings. Mr. Posey has an absolute right to challenge

this taking of his property. When the government submits a proposed order on day one and it is signed on day two, a claimant is deprived of his property without due process.

**WHEREFORE**, Claimant Bart Posey respectfully requests that the Court set aside the orders granting the government's request that rent payments previously received by Claimant Bart Posey be instead submitted directly to the Department of Justice or Claimant F & M Bank.

Respectfully submitted,

TUNE, ENTREKIN & WHITE P.C.  
Suite 1700, Regions Center  
315 Deaderick Street  
Nashville, TN 37238  
(615) 244-2770

S:/ Peter Strianse  
PETER J. STRIANSE  
Attorney for Claimant Bart Posey

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been sent via the Court's electronic filing system unless not registered and, in that event deposited in the United States mail, postage prepaid, to:

Debra T. Phillips  
Assistant United States Attorney  
110 Ninth Avenue South  
Suite A961  
Nashville, TN 37203-3870

this 1<sup>st</sup> day of June, 2012.

S:/ Peter J. Strianse  
PETER J. STRIANSE