

IN THE SUPREME COURT OF THE STATE OF NEVADA

LENDER PROCESSING SERVICES
INC.; FIDELITY NATIONAL
INFORMATION SERVICE, INC.; LPS
DEFAULT SOLUTIONS, INC.; AND
DOCX, LLC,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GONZALEZ, DISTRICT
JUDGE,

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

Docket No. 61387

District Court Case No. A-11-
653289-B

**THE STATE OF NEVADA'S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Under Nevada Rule of Appellate Procedure 31(e), the State of Nevada submits as supplemental authority *Merck Sharpe & Dohme Corp. v. Conway*, Civil Action No. 3:11-51-DCR (E.D. Ky. May 24, 2013) (“*Merck II*”), attached hereto as Exhibit A.

Petitioners have asserted that their standing to bring the Petition is supported by *Merck Sharp & Dohme Corp. v. Conway*, 861 F. Supp. 2d 802 (E.D. Ky. 2012) (“*Merck I*”), representing that the federal district court for the Eastern District of Kentucky “found” and “determined” that a pharmaceutical company “had suffered” a concrete and ongoing injury in being forced to defend itself in a quasi-criminal proceeding. Petitioners’ Reply in Supp. of Pet. for *Writ of Mandamus* 7, 14. Petitioners overstated the federal district court’s preliminary conclusion, which was only that Merck had alleged an injury sufficient to confer standing. *Merck I*, 861 F. Supp. 2d at 809. Last week, the federal district court issued another ruling in the case, granting summary judgment to the Commonwealth of Kentucky after finding that Merck had not, in fact, suffered any injury where the Kentucky Attorney General’s office hired outside counsel on a contingency fee basis to assist in the prosecution of the Commonwealth’s claims. Ex. A, *Merck II*, slip op. at 12-17, 20-21, 25-27, 29-33.

Merck II does not support Petitioners’ contentions, but rather supports the State’s arguments and is consistent with other authority cited by the State. See Respondent’s Br. Answering Pet. for *Writ of Mandamus* 42-44; State’s Answer to Br. of *Amici Curiae* Chamber of Commerce 5–14.

Dated this 28th day of May 2013.

SUBMITTED BY:

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on May 28, 2013.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

*Honorable Elizabeth Gonzalez
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s/ Vicki Beavers _____
Vicki Beavers, an employee of
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