

June 4, 2015

CEASE AND DESIST

VIA EMAIL TO:

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Re: Zionsville's Reorganization and Indiana Court of Appeals
Cause No. 06A01-1410-PL-432
Appellate Rule 65(E) CEASE AND DESIST

Dear Counsel:

This firm represents the Town of Whitestown, Indiana in connection with the above-referenced matter. On June 2, 2015, the Indiana Court of Appeals handed down its "uncertified opinion" in the above-referenced matter consistent with Indiana Rule of Appellate Procedure 65(E). It has now come to our attention that in reliance on the Court of Appeals' uncertified opinion, Zionsville has taken certain actions relative to its reorganization plan.

Pursuant to Indiana Rule of Appellate Procedures 65(E), "the trial court, administrative agency, **and parties shall not take any action in reliance upon the opinion or memorandum decision** [of the Court of Appeals] ***until*** the opinion or memorandum decision is ***certified***." (emphases added). Importantly, the opinion shall not be certified until "***after*** the time for all Petitions for Rehearing, Transfer or Review has expired, unless all the parties request earlier certification." ***Id.***(emphasis added).

Based on verified media reports and the Town of Zionsville's website, the Town of Zionsville is in direct violation of Appellate Rule 65(E). Specifically, according to *Current in Zionsville*, on June 2, 2015, Jeff Papa was sworn in as the mayor of the Town of Zionsville. (See <http://www.currentzionsville.com/2015/06/03/reorganized-roles/>). Further, according to the Zionsville website, Mr. Papa is the first mayor of the Town of Zionsville. (See www.zionsville-

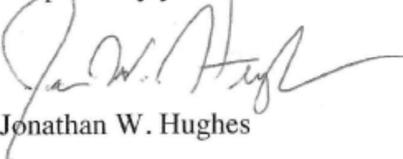
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in.gov/government/elected-officials/). In addition, our client, the Town of Whitestown, Indiana, has received e-mails from various service providers, including the Boone County Sheriff, indicating that Zionsville has notified these county service providers that Zionsville is now the primary police provider in unincorporated Perry Township. Finally, in a quote to the media as cited in the *Indiana Business Journal* on June 3, 2015, Mr. Papa wrote the following in an e-mail: “The only thing holding up the implementation of the will of the voters in Perry Township and Zionsville was the trial court ruling, which was vacated by the Court of Appeals (Tuesday). **The plan went into effect immediately, or had already been effective, upon the Court of Appeals decision.**” (emphasis added) (See Exhibit A).

Mr. Papa and the Town of Zionsville’s actions to move forward as if the plan for reorganization is effective is in direct contravention of Indiana law. Pursuant to Appellate Rule 65(E), the Town of Whitestown hereby demands that Zionsville and Mr. Papa **cease and desist** all actions that would seek to hold the Court of Appeals’ uncertified decision of June 2, 2015 to be effective. In addition, the Town of Whitestown hereby demands that Mr. Papa, the Town of Zionsville, and any of its agents or representatives **cease and desist** all action that would lead any reasonable third party to believe that the Town of Zionsville has completed its reorganization with Perry Township or is otherwise the municipal provider of services within Perry Township. Under Indiana Appellate Rule 57(c), the Town of Whitestown has thirty (30) days after June 2, 2015 within which to file its Petition to Transfer and intends to do so. As such, until the transfer process concludes, the decision of the Court of Appeals is an uncertified decision upon which the Town of Zionsville “shall not take **any** action in reliance.” Ind. App. R. 65(E) (emphasis added). Any action taken by the Town of Zionsville until the Indiana Supreme Court has had an opportunity to weigh in on this matter is void *ab initio*. To that end, Mr. Papa must step down as mayor and Zionsville must cease and desist all actions immediately.

Please confirm by Tuesday, June 9, 2015 at 12 p.m. noon whether you intend to comply with this Cease and Desist request. Anything short of an unqualified confirmation may result in the Town of Whitestown seeking all available legal remedies, including an order from the Indiana Supreme Court.

Respectfully yours,



Jonathan W. Hughes

JWH:dwc
Enclosures
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