

**COMMONWEALTH OF KENTUCKY  
SUPREME COURT  
2009-SC-000043**

**COMMONWEALTH OF KENTUCKY  
J. MICHAEL BROWN, SECRETARY,  
JUSTICE AND PUBLIC SAFETY CABINET**

**APPELLANT**

**V.**

**INTERACTIVE MEDIA ENTERTAINMENT AND  
GAMING ASSOCIATION, INC.**

**AND**

**PLAYERONLY.COM, SPORTSBOOK.COM,  
SPORTSINTERACTION.COM,  
MYSPORTSBOOK.COM, LINESMAKER.COM**

**AND**

**VICSBINGO.COM AND INTERACTIVE GAMING  
COUNCIL**

**AND**

**HON. THOMAS D. WINGATE, FRANKLIN CIRCUIT JUDGE**

**APPELLEES**

**ON APPEAL FROM  
COURT OF APPEALS  
NOS. 2008-CA-002000; 2008-CA-002019; 2008-CA-002036**

**ORIGINAL ACTION  
FRANKLIN CIRCUIT COURT  
ARISING FROM ACTION NO. 08-CI-1049**

---

**COMMONWEALTH'S MOTION TO FILE  
BRIEF EXCEEDING PAGE LIMITATIONS**

---

Comes the Appellant, Commonwealth of Kentucky *ex rel.* J. Michael Brown, Secretary, Justice and Public Safety Cabinet (“Commonwealth”), by and through counsel, and for its Motion For Leave to File Brief Exceeding Page Limitations, states as follows:

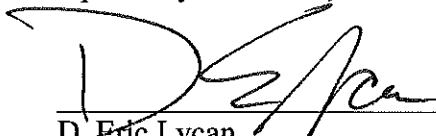
The Commonwealth moves this honorable Court for leave to file a brief for appellant in excess of the fifty (50) page limit imposed by the Civil Rules, to and including eighty (80) pages. As grounds for this Motion, the Commonwealth states that the briefing in this matter requires significant attention to a predicate issue – that of standing of the illegal gambling associations and the dot-com pseudonyms to appear in defense of property in which they claim no legal interest, as surrogates for anonymous offshore parties engaged in an illegal enterprise.

The matter furthermore requires briefing of issues in addition to the legal question of whether a conviction of an individual is required prior to forfeiture of property and the factual question of whether a domain name is a device. Included among these additional issues are (1) the extraordinary nature of a writ of prohibition, (2) the extent of the Commonwealth’s *in rem* jurisdiction, and (3) the situs of internet domain names as intangible property. In the original action in the Court of Appeals, three Petitions for Writ of Prohibition were filed totaling 105 pages (without exhibits), along with three *Amici Curiae* briefs raising additional arguments. These filings each raise issues the Commonwealth is required to address. Allowing the Commonwealth to exceed the page limitation will ensure that the Commonwealth can treat each of these issues as merited by the significant public policy and jurisdictional concerns.

In the alternative, the Commonwealth requests an additional ten (10) days from service of the Court’s Order denying the Motion in which to file a brief in compliance with the page limitations.

WHEREFORE, the Appellant, Commonwealth of Kentucky, respectfully requests leave to file a brief in excess of the fifty (50) page limit imposed by the Civil Rules, to and including eighty (80) pages. In the alternative, the Commonwealth requests an additional ten (10) days from service of the Court's Order denying the Motion in which to file a brief in compliance with the page limitations.

Respectfully submitted,



D. Eric Lycan  
William H. May, III  
William C. Hurt, Jr.  
Aaron D. Reedy  
HURT, CROSBIE & MAY, PLLC  
127 W. Main Street  
Lexington, Kentucky 40507  
Telephone: (859) 254-0000  
Fax: (859) 254-4763

Robert M. Foote  
FOOTE, MEYERS, MIELKE &  
FLOWERS, LLC  
28 North First Street, Suite 2  
Geneva, IL 60134

COUNSEL FOR THE COMMONWEALTH

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing has this day of February 11, 2009 been served by electronic mail and by first-class United States Mail, postage prepaid to the following:

John L. Tate  
Hon. Ian T. Ramsey  
Hon. Joel T. Beres  
Stites & Harbison, PLLC  
400 West Market Street  
Suite 1800  
Louisville, KY 40202-3352  
Fax: (502) 587-6391

Hon. William E. Johnson  
Johnson, True & Guarnieri, LLP  
326 West Main Street  
Frankfort, KY 40601  
Telephone: (502) 875-6000

Hon. Bruce F. Clark  
Stites & Harbison, PLLC  
421 West Main Street  
Frankfort, KY 40601

Hon. Patrick T. O'Brien  
Greenberg Traurig  
401 East Las Olas Boulevard  
Suite 2000  
Fort Lauderdale, FL 33301  
Fax: (954) 765-1477

Hon. A. Jeff Ifrah  
Hon. Jerry Stouck  
Greenberg Traurig, LLP  
Suite 1000  
2101 L. Street, N.W.  
Washington, D.C. 20037

Kevin D. Finger  
Paul D. McGrady  
Greenberg Traurig, LLP  
77 West Wacker Drive, Suite 2500  
Chicago, IL 60601  
*Counsel for Domain Defendants*  
*playersonly.com,*  
*sportsbook.com,sportsinteraction.com,*  
*mysportsbook.com,*  
*and linesmaker.com*

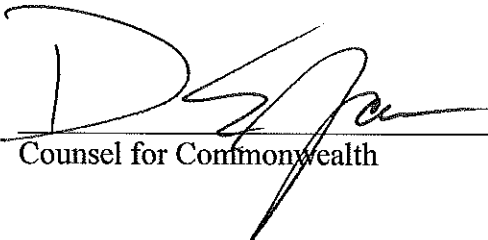
*Counsel For Interactive Gaming Council*  
*And Vicsbingo.com*

Hon. Thomas Wingate, Judge  
Franklin Circuit Court  
P.O. Box 40601-0678  
Frankfort, KY 40601-0678

Hon. Jon L. Fleischaker  
Hon. R. Kenyon Meyer  
Hon. James L. Adams  
Dinsmore & Shohl, LLP  
1400 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202

*Appellee*

Hon. Edward James Leyden  
Hollrah Leyden, LLC  
1850 K Street, N.W.  
International Square, Suite 390  
Washington, D.C. 20006  
*Counsel For Interactive Media Entertainment &*  
*Gaming Association, Inc.*

  
Counsel for Commonwealth