

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR PASCO COUNTY
CIVIL DIVISION**

**OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA,**

Plaintiff,

Case No.: 51-2010-CA-2912-WS/G

vs.

**BOTFLY, LLC, DAVID R. LEWALSKI,
and JON J. HAMMILL,**

Defendants.

**INTERVENORS' RESPONSE IN OPPOSITION
TO LEWALSKI'S MOTION TO STAY PROCEEDINGS**

Come now Intervenor, by and through their undersigned attorney, and file this Response in Opposition to Lewalski's Motion to Stay Proceedings and state:

1. Lewalski's grounds for his Motion to Stay Proceedings include his ability to represent himself in this proceeding at the conclusion of the criminal case against him, presuming that he will be found not guilty and will not be incarcerated at the conclusion of that case.

2. There is no guarantee that Lewalski will be released from incarceration within the foreseeable future; therefore, Lewalski has not submitted convincing grounds to stay these proceedings.

3. A. This proceeding has been going on for more than a year, and there is no way for anyone to accurately predict when it will end.

B. Any stay of this proceeding will only result in further damage to the investors who are anxiously awaiting the conclusion of this case and hoping that there will be funds to distribute to them after all the assets have been gathered by the receiver.

C. Also, any stay of this proceeding would be highly prejudicial to each investor who the uncontradicted complaint in this case alleges were injured through Botfly, LLC and by Lewalski individually.

4. A. Lewalski's ability to file his motion to stay proceedings shows that he is, in fact, able to represent himself in this proceeding.

B. Lewalski is on the certificate of service for all parties and non-party participants, such as the receiver and the intervenors, as well as the "copies furnished to" list of the court, all of which keeps him apprised of the actions taken or to be taken.

C. There is no need to appear in court personally to represent oneself; indeed, the undersigned has attended civil hearings with prisoners who were permitted to represent themselves by phone from the prison or were transported to and from the proceedings by law enforcement officers.

5. Therefore, there is no prejudice for Lewalski to defend himself from prison while the case goes forward for the benefit of the injured parties and persons, and any stay would be highly prejudicial to such victims/investors.

WHEREFORE, Intervenors request that this court deny Lewalski's Motion to Stay Proceedings.

Respectfully submitted on April 14, 2011.

/s/ Gabriel Mazzeo
Gabriel Mazzeo
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Attorney for Intervenors

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true copy of the above and foregoing has been furnished

by Email to the following persons:

Nicholas J. Weilhammer, Esquire
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Jon J. Hammill
Defendant, Pro Se
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and by U.S. Mail to the following person, on April 14, 2011:

Inmate David Lewalski
Pinellas County Jail
Cell Location/Status CEN-6CI-UN01-08-003
14400 49th Street North
Clearwater FL 33762

/s/ Gabriel Mazzeo

Gabriel Mazzeo