

Second, the Court lacks subject-matter jurisdiction to intervene in the criminal cases pending against McDermott and Rogers in Collin County. Both McDermott and Rogers¹ have asked the Court to enjoin the State, the TSSB and the Receiver from taking actions with respect to the criminal cases against them. Among other things, McDermott has asked this Court to enjoin the TSSB and various of its employees from prosecuting the criminal case, to determine whether TSSB employees may properly be appointed as special prosecutors by local District Attorneys, to declare that certain (unspecified) evidence is inadmissible in the criminal trial and to enjoin the Receiver and the TSSB from providing certain evidence to the prosecutors in the criminal case. Rogers has made similar, albeit more limited, requests to this Court.

Regardless of the merits of these claims, this is not the right Court to decide them. The only court that has the jurisdiction to decide who may prosecute the case, whether the criminal cases should be dismissed, what evidence may be submitted and who may testify is the court in Collin County hearing the criminal cases. It is a basic principal of Texas law that a court exercising civil jurisdiction, such as this one, cannot interfere with an ongoing criminal prosecution unless constitutional issues and vested property rights are at issue. Neither is at issue in the criminal cases against Rogers and McDermott. This issue is more fully briefed in the Receiver's Response to McDermott's Motion to Enforce.

Even if this Court has jurisdiction over this dispute, Rogers and McDermott cannot enforce a settlement agreement by a motion to enforce. Instead, they must

¹ Rogers appears to have withdrawn at least part of her request for injunctive and declaratory relief.

file a petition against the Receiver and the State, which can then be litigated in accordance with the Rules of Civil Procedure. The Receiver objects to the attempt by Rogers and McDermott to short circuit the Rules of Civil Procedure. They should be required to file new suits against the State and Receiver, which can then be tested under the Rules and law of this State. This issue is more fully briefed in the Receiver's Response to Roger's Motion to Enforce and in the Receiver's Response to McDermott's Motion to Enforce.

ACCORDINGLY the Court should dismiss the motions to enforce filed by Rogers and McDermott.

Respectfully submitted,

By: /s/ Michael D. Napoli
Michael D. Napoli
State Bar No. 14803400

DYKEMA COX SMITH
1201 Elm Street, Suite 3300
Dallas, Texas 75270
(214) 698-7837
(214) 698-7899 (Fax)
mnapoli@dykema.com

COUNSEL FOR THE RECEIVER OF
RETIREMENT VALUE, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record listed below, through the electronic filing manager if that counsel's e-mail address is on file or via e-mail, if not, on this 1st day of June 2015

<p>Jack Hohengarten Texas Attorney General Financial and Tax Litigation Division 300 W. 15th Street, Sixth Floor Austin, Texas 78711-2548 (512) 475-3503 (512) 477-2348 fax jack.hohengarten@texasattorneygeneral.gov Counsel for the State of Texas</p>	<p>Isabelle M. Antongiorgi Taylor Dunham, llp 301 Congress Avenue, Suite 1050 Austin, Texas 78701 (512) 473-2257 (512) 478-4409 fax iantongiorgi@taylordunham.com Counsel for HCF Receiver</p>
<p>Geoffrey D. Weisbart Mia A. Storm Weisbart Springer Hayes LLP 212 Lavaca Street, Suite 200 Austin, Texas 78701 (512) 652-5780 (512) 682-2074 fax gweisbart@wshllp.com mstorm@wshllp.com Counsel for the Cain Intervenors</p>	<p>Alberto T. Garcia III Garcia & Martinez, llp 5211 W. Mile 17 ½ Road Edinburg, Texas 78541 (956) 380-3700 (956) 380-3703 fax albert@garmtzlaw.com yoli@garmtzlaw.com Counsel for the Harrison Intervenors</p>
<p>Bogdan Rentea Rentea & Associates 1002 Rio Grande Street Austin, Texas 78701 (512) 472-6291 (512) 472-6278 brenteaa@rentealaw.com Counsel for Wendy Rogers</p>	<p>Meagan Martin Standly and Hamilton, LLP 325 N. St. Paul, Suite 3300 Dallas, Texas 75201 (214) 234-7900 (214) 234-7300 fax mmartin@standlyhamilton.com Counsel for HCF Investor Intervenors</p>

<p>Milton G. Hammond Law Office of Milton G. Hammond 6406 La Manga Drive Dallas, Texas 75248 (214) 642-0881 (972) 782-4540 fax mghammondlaw@gmail.com Counsel for the Marlow Intervenors</p>	<p>Carl Galant Nicholas P. Laurent McGinnis Lochridge & Kilgore, LLP 600 Congress Avenue, Suite 2100 Austin, Texas 78701 (512) 495-6000 (512) 495-6093 fax cgalant@mcginnislaw.com nlaurent@mcginnislaw.com Counsel for Third Party Defendants Ron James, Don James, and James Settlement Services</p>
---	---

By: /s/ Michael D. Napoli
Michael D. Napoli