

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

APR 26 2011
CHRIS R. JOHNSON, CLERK

DAVID STEBBINS

PLAINTIFF

vs.

Case No. 10-3086

WAL-MART STORES, INC.

DEFENDANTS

BRIEF IN SUPPORT OF MOTION

Comes now Plaintiff David Stebbins, who respectfully submits the following brief in support of my motion for reconsideration of my motion to confirm the arbitration award.

I filed a suggestion in support of my motion to confirm the arbitration award where I argued that the Defendants' failure to timely file a motion to vacate the award should render moot their motion for partial summary judgment. You received this suggestion on April 21, 2011, but you had already passed judgment, denying the motion I was trying to support, the day before.

However, this suggestion in opposition would not have been late, had I only had ECF access. As you can see from the timestamp on the envelope, the Post Office picked up the envelope on April 20, 2011, possibly while you were simultaneously passing judgment on the motion to confirm the arbitration award. This obviously means that I had the motion signed and ready to file before then.

However, if you want further proof, I have enclosed Exhibit A, a screenshot of my computer, with reduced resolution, so you can read it easily. Notice the document I have highlighted: "Procedural Suggestion in Support of Motion." I named it that because it concerned my argument that the Defendants' motion for partial summary judgment was procedurally improper.

More importantly, however, look at the "date modified" column. It was last modified at 2:39PM on April 19, 2011. This conclusively proves that the procedural suggestion would have been on the docket before judgment was passed, had I been allowed to file it electronically. If I had ECF access, it would have been filed and docketed instantly.

For that reason, I believe that you should give consideration to this legal argument, despite it

technically being filed late. The only reason it was filed late is because you denied my motion for ECF access.

Wherefore, I respectfully pray that you grant my motion for reconsideration, subsequently grant my motion to confirm the arbitration award, and award other relief that the court finds appropriate.

It is so requested, on this 22nd day of April, 2011.

A handwritten signature in black ink, appearing to read "David Stebbins", written over a horizontal line.

David Stebbins
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CERTIFICATE OF SERVICE

I, Plaintiff David Stebbins, hereby certify that a true and correct copy of my motion for reconsideration was served on Jeffrey Spillyards, attorney for the Defendants, by faxing a copy to the fax number of 501-688-8807 on the 22nd day of April, 2011.



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