

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:09-cv-02802-REB- MEH

JEREMY C. MYERS,

Plaintiff,

v.

BRIAN KOOPMAN, in his individual capacity,

Defendant.

**REPLY IN SUPPORT OF DEFENDANT'S MOTION FOR STAY
(DOCKET # 143, FILED 06/29/2011)**

DEFENDANT Brian Koopman ("Koopman"), by and through his attorneys, the Loveland City Attorney's Office and Wick & Trautwein, LLC, respectfully replies as follows in support of Defendant's Motion for Stay:

1. Defendant's Motion for Stay (# 143) requests the District Court stay its Order lifting the stay on discovery in this case pending interlocutory appeal. Since the filing of the Motion, Defendant has docketed his interlocutory appeal concerning absolute immunity with the United States Court of Appeals for the Tenth Circuit, thereby divesting the District Court over those aspects of the case involved in the appeal, which obviously include all discovery since one of the primary purposes of absolute immunity is to protect the Defendant from the burdens of discovery. The District Court nevertheless retains jurisdiction over tangential matters such as issuing stays pending appeal. *Stewart v. Donges*, 915 F.2d 572, 575 and n.3 (Tenth Cir. 1990).

2. Plaintiff, in his Response to Defendant Koopman's Motion for Stay (#154), has not cited any legal authority for the trial court to retain jurisdiction to order discovery while the interlocutory appeal on absolute immunity is under way. The District Court should therefore grant Defendant Koopman's Motion for Stay, which Motion has been referred to Magistrate Judge Michael E. Hegarty by Judge Robert E. Blackburn on June 30, 2011, by memorandum docket text entry (#144).

DATED this 25th day of July, 2011.

WICK & TRAUTWEIN, LLC

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2011, I electronically filed the foregoing Reply in Support of Defendant's Motion for Stay with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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