

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 15-0098

Petitioners,

STATE OF WEST VIRGINIA ex rel.
AIRSQUID VENTURES, INC. (DBA AMPHIBIOUS MEDICS), and TRAVIS
PITTMAN,

v.

The HONORABLE DAVID W. HUMMEL, JR. Judge of the Circuit Court of
MARSHALL County, West Virginia,

Respondents.

TOUGH MUDDER, LLC; PEACEMAKER NATIONAL TRAINING CENTER,
LLC¹; GENERAL MILLS, INC.; and GENERAL MILLS SALES, INC.'S
RESPONSE TO PETITION FOR WRIT OF PROHIBITION BY AIRSQUID
VENTURES, INC. (d/b/a AMPHIBIOUS MEDICS), and TRAVIS PITTMAN

On Petition for a Writ of Prohibition to the Circuit Court of Marshall County,
West Virginia (Civil Action No. 14-C-66)

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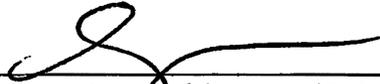
¹ Tough Mudder, LLC has changed its name since the instant, underlying case was filed in the Circuit Court of Marshall County. The entity's new name is Tough Mudder Incorporated.

TO: THE HONORABLE CHIEF JUSTICE AND
THE HONORABLE JUSTICES OF THE SUPREME COURT OF
APPEALS

AND NOW, come. *Tough Mudder, LLC (n/k/a Tough Mudder Incorporated), Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc.* (collectively, “Tough Mudder Defendants”), by and through their counsel, Robert P. O’Brien and Jennifer M. Sullam of Niles, Barton and Wilmer, LLP; Robert N. Kelly, and Michele L. Dearing of Jackson & Campbell, PC; and Alonzo D. Washington and Christopher M. Jones of Flaherty Sensabaugh Bonasso, PLLC, who hereby respond to the Petition filed by Airquid Ventures, Inc. (d/b/a Amphibious Medics) and Travis Pittman (“Petitioners”) for a Writ of Prohibition against Respondent, the Honorable David W. Hummel, Jr., in his official capacity as Judge of the Circuit Court of Marshall County, thereby prohibiting the Circuit Court of Marshall County from taking further action in the underlying case and ordering dismissal thereof due to the Plaintiff Mita Sengupta’s choice of an improper venue in Marshall County pursuant to West Virginia Rule of Civil Procedure 12(b)(3) and West Virginia Code § 56-1-1.

The Tough Mudder Defendants were not named as Respondents in the instant Petition for Writ of Prohibition, but to the extent that a response is required of the Tough Mudder Defendants pursuant to the scheduling order issued by this Court on February 6, 2015, the Tough Mudder Defendants state that they filed a Petition for Writ of Prohibition on February 9, 2015, Number 15-0102, in which they sought similar relief to that requested in the instant Petition for Writ of Prohibition. The Tough Mudder Defendants incorporate their arguments set forth in the Petition they filed on February 9, 2015. To the extent the arguments set forth in the instant Petition do not contradict those set forth in the Tough Mudder Defendants' Petition, the Tough Mudder Defendants join in the instant Petition. The Tough Mudder Defendants also renew their request that this Honorable Court grant relief from the Circuit Court of Marshall County's "Order Denying Defendants' Motions to Dismiss Based on Venue and *Forum Non Conveniens*," entered on January 9, 2015, and prevent the Circuit Court for Marshall County from taking further action with respect to this matter.

Respectfully Submitted,



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Petitioners,

State of West Virginia ex rel., AIRSQUID VENTURES, INC.,
d/b/a AMPHIBIOUS MEDICS, and TRAVIS PITTMAN,
Defendants Below,

v.

HONORABLE DAVID W. HUMMEL, JR. Judge of the Circuit Court of
MARSHALL County; and MITA SENGUPTA, as Personal Representative of
AVISHEK SENGUPTA, Plaintiff Below; TOUGH MUDDER LLC;
PEACEMAKER NATIONAL TRAINING CENTER, LLC; GENERAL
MILLS, INC.; and GENERAL MILLS SALES, INC., Defendants Below,

Respondents.

TOUGH MUDDER, LLC; PEACEMAKER NATIONAL TRAINING CENTER,
LLC; GENERAL MILLS, INC.; and GENERAL MILLS SALES, INC.'S
RESPONSE TO PETITION FOR WRIT OF PROHIBITION BY AIRSQUID
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CERTIFICATE OF SERVICE

I, Alonzo D. Washington, counsel for the Defendants, Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc., do hereby certify that on the 6th day of March, 2015, I served the forgoing TOUGH MUDDER, LLC; PEACEMAKER NATIONAL TRAINING CENTER, LLC; GENERAL MILLS, INC.; and

GENERAL MILLS SALES, INC.'S RESPONSE TO PETITION FOR WRIT OF PROHIBITION BY AIRSQUID VENTURES, INC. (d/b/a AMPHIBIOUS MEDICS), and TRAVIS PITTMAN, on counsel as follows:

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