

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

SR. KATE REID, *et al.*,

Plaintiffs-Appellees,

v.

DOE RUN RESOURCES
CORPORATION, *et al.*,

Defendants-Appellants.

No. 23-1625

**PLAINTIFFS-APPELLEES’ MOTION TO CORRECT,
OR IN THE ALTERNATIVE TO STRIKE,
THE STATE OF MISSOURI’S AMICUS BRIEF**

Under Federal Rule of Appellate Procedure 27, Plaintiffs-Appellees move for an order directing amicus curiae the State of Missouri to correct footnote 1 of its amicus brief, or in the alternative striking the brief. This motion is based on new information that was recently disclosed only after the filing of Appellees’ response brief. In support of this Motion, Appellees state as follows:

1. On July 5, 2023, Missouri’s Attorney General, Andrew Bailey, filed an amicus brief supporting Defendant-Appellant The Renco Group Inc. (“Renco”). Less than three months later, he received a large campaign donation from Renco – its first-ever to him. Despite that donation, General Bailey included a footnote in his brief certifying that “no person other than amicus curiae made a monetary

contribution to the preparation or submission of this brief.” The Court should direct General Bailey to correct that statement or should strike the brief altogether.

2. General Bailey included footnote 1 in the amicus brief to mirror the commitments set forth in Federal Rule of Appellate Procedure 29(a)(4)(E), which requires amicus briefs to state whether “a person – other than the amicus curiae, its members, or its counsel – contributed money that was intended to fund preparing or submitting the brief and, if so, identif[y] each such person.” Fed. R. App. P. 29(a)(4)(E)(iii). Modeled on Supreme Court Rule 37.6, this funding-disclosure requirement is meant to “deter counsel from using an amicus brief to circumvent page limits on the parties’ briefs” and to “help judges to assess whether the amicus itself considers the issues important enough to sustain the cost and effort of filing an amicus brief.” Fed. R. App. P. 29 advisory committee’s note to 2010 amendments; *see* Tony Mauro, *Supreme Court Rule Crimps Crowd-Funded Amicus Briefs*, LAW.COM (Dec. 10, 2018) (Ex. A) (Supreme Court enacted disclosure rule “to stop parties in a case from surreptitiously ‘buying’ what amounts to a second or supplemental merits brief, disguised as an amicus brief”).

General Bailey filed his amicus brief “[o]n behalf of the State” to “inform” the Court that “the State lacks any substantial interest in this case proceeding in Missouri.” AG Br. 1. Although Rule 29(a)(4)(E) exempts States from the disclosure requirement of Rule 29(a)(4)(E)(iii), General Bailey nonetheless affirmatively

certified that “[n]o person other than amicus curiae made a monetary contribution to the preparation or submission of this brief.” *Id.* at 1 n.1. That statement, which was technically unnecessary, appears designed to convey compliance with funding-disclosure commitments applicable to other parties under Rule 29.

3. Footnote 1 appears to be inaccurate. On September 18 – less than three months after General Bailey filed the brief, but after Appellees had filed their response brief – Renco made a \$50,000 contribution to the Liberty and Justice PAC. *See* Liberty and Justice PAC, Report ID #27787, Missouri Ethics Comm’n (Sept. 18, 2023) (Ex. B). That political action committee fundraises for General Bailey’s 2024 reelection campaign. *See* Jason Hancock, *Andrew Bailey begins fundraising for Missouri AG campaign with help from lobbyist*, Missouri Independent (Dec. 12, 2022) (Ex. C). Until General Bailey’s amicus brief supporting Renco’s position in this case, Renco does not appear to have made any previous donations to him or to his campaign.¹

Public records indicate that Renco’s \$50,000 donation to General Bailey is just the second time Renco has donated to a Missouri state politician. The other time was in December 2018, when Renco donated \$25,000 to Uniting Missouri

¹ Appellees identified Renco’s contributions by searching the Missouri Ethics Commission’s “Contributions & Expenditures” database for 2002-2023, which is every year the Commission has records. *See* Contributions & Expenditures Search, Missouri Ethics Comm’n, <https://tinyurl.com/3rphrhxc> (last accessed Oct. 16, 2023).

PAC, a political action committee that fundraised for Governor Mike Parson’s 2020 gubernatorial campaign. *See* Uniting Missouri PAC, Report ID #19359, Missouri Ethics Comm’n (Dec. 14, 2018) (Ex. D); Jason Hancock, *Parson used private plane of Missouri nursing home exec cited for numerous violations*, Kansas City Star (Dec. 18, 2019) (Ex. E). The result was similar. The month after Renco’s donation, Governor Parson sent a letter to this Court urging dismissal. *See* Letter from Michael L. Parson, Governor, to the U.S. Court of Appeals for the Eighth Circuit (Jan. 30, 2019) (Ex. F). Soon after that, Governor Parson sent a similar letter to the U.S. State Department urging it to “file a statement of interest” seeking dismissal on international-comity grounds. *See* Letter from Michael L. Parson, Governor, to Michael R. Pompeo, U.S. Sec’y of State (Mar. 22, 2019) (Ex. G).² The State Department declined the Governor’s unusual request that it intervene to aid a private tort defendant’s litigation position. *See* Appellees Br. 33-34.

In sum, Renco seemingly has only ever made two donations to Missouri state politicians – and both closely coincided with the recipients intervening in this litigation to help Renco. Given Renco’s \$50,000 first-ever donation to General Bailey’s reelection PAC, timed to follow shortly after his amicus brief, the statement

² Governor Parson’s letter is available on the St. Louis Post-Dispatch’s website, which reportedly obtained the letter through an open records request. *See* Jack Suntrup, *Missouri governor tried to get St. Louis company’s lead-poisoning lawsuits shipped to Peru*, St. Louis Post-Dispatch (Dec. 16, 2010) (Ex. I); *see also* <https://tinyurl.com/4c8ph2wb> (last accessed Oct. 16, 2023).

that “[n]o person” contributed monetarily “to the preparation or submission” of his amicus brief appears inaccurate. *Cf. United States v. Bruno*, 661 F.3d 733, 744 (2d Cir. 2011) (“timing of the payments in relation to the actions” can support inference that “payments were made in return for official action”).

4. The Court should direct General Bailey to correct that statement. This Court regularly requires parties to resubmit corrected briefs when warranted. *See, e.g.*, Brief Deficiency Notice to Sean Grammel (Sept. 7, 2023) (directing counsel to add address to cover page); Brief Deficiency Notice to Joshua Divine (July 7, 2023) (directing counsel to correct cover page to identify party supported). Other courts – including the Supreme Court – likewise have required amicus curiae to resubmit briefs for failing to disclose their donors. *See, e.g.*, Ex. A (describing Supreme Court’s rejection of amicus brief by the U.S. Alcohol Policy Alliance for failing to identify donors); *cf. United States v. Microsoft Corp.*, 56 F.3d 1448, 1464 (D.C. Cir. 1995) (per curiam) (court erred in permitting anonymous amicus brief without considering “the impact of anonymity on the public interest” and “unfairness” to party). Similar relief is warranted here. In considering General Bailey’s brief – which distorts the factual record in Renco’s favor, *see* Appellees Br. 37-38 – the Court should be fully informed of the funding that induced it.

In the alternative, the Court should strike the brief altogether. *Cf. Yankton Sioux Tribe v. Gaffey*, 188 F.3d 1010, 1014 n.4 (8th Cir. 1999) (striking affidavits

attached to amicus brief); *Atl. Richfield Co. v. Farm Credit Bank of Wichita*, 226 F.3d 1138, 1145 n.2 (10th Cir. 2000) (striking amicus brief in part). A spokesperson for General Bailey has publicly described the Missouri Attorney General’s “longstanding practice” of withdrawing from matters when necessary “to avoid any appearance of impropriety,” including apparent impropriety arising from campaign donations. Rudi Keller, *Missouri AG drops out of gambling case after taking donations from companies suing state*, Missouri Independent (Apr. 25, 2023) (Ex. H). In fact, General Bailey reportedly withdrew from one recent matter in part because a party to that matter had indirectly donated \$25,000 to the Liberty and Justice PAC. *See id.* This case – involving a party’s direct \$50,000 campaign donation to the same PAC – merits the same result.

For the foregoing reasons, the Court should direct General Bailey to correct footnote 1 to add an acknowledgment that Defendant-Appellant Renco contributed \$50,000 to his 2024 reelection campaign. Alternatively, the Court should strike the brief.

DATED: October 18, 2023

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 1,278 words, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f). As required by Federal Rule of Appellate Procedure 27(d)(1)(E), this document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared using Microsoft Word 2016 in a proportionally spaced typeface (Times New Roman, 14-point font).

This document has been scanned for viruses pursuant to Eighth Circuit Local Rule 28A(h)(2) and is virus-free.

Dated: October 18, 2023

Respectfully submitted,

/s/ Joshua D. Branson

Joshua D. Branson

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system on October 18, 2023. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Joshua D. Branson
Joshua D. Branson

Exhibit A

Supreme Court Rule Crimps Crowd-Funded Amicus Briefs

By Tony Mauro

December 10, 2018

Appears in: National Law Journal, Law.com, Legaltech News, New Jersey Law Journal, The Legal Intelligencer

A handful of organizations have recently resorted to GoFundMe campaigns to generate donations for covering the cost of producing amicus briefs filed with the U.S. Supreme Court.

But because GoFundMe allows for anonymous contributions, the **nascent trend** has hit a speed bump.

A lawyer for the U.S. Alcohol Policy Alliance is withdrawing **an amicus brief she filed** in a pending case, after the court clerk's office informed her that amicus groups must identify all contributors who gave money to fund such briefs. The alliance's **GoFundMe campaign** included anonymous donors.

"We're going to re-file the brief with a revised disclosure that identifies all the donors to the GoFundMe," Allison Ehlert of Ehlert Appeals in El Cerrito, California, said. "The client has returned the donation of the one or two anonymous donors who preferred to remain anonymous."

The sticking point is the high court's **Rule 37.6**, which requires that amicus brief filers "shall identify every person other than the amicus curiae, its members or its counsel, who made such a monetary contribution." The court imposed the rule in 1997 in an effort to stop parties in a case from surreptitiously "buying" what amounts to a second or supplemental merits brief, disguised as an amicus brief, to get around word limits.

In a statement to The National Law Journal, the court's public information office said last week, "The Clerk's Office interprets this language [of Rule 37.6] to preclude an amicus from filing a brief if contributors are anonymous." The National Law Journal first brought the issue of anonymous GoFundMe amicus funding to the court's attention Nov. 28.

The Alcohol Policy Alliance brief was filed in the case of *Tennessee Wine & Spirits Retailers Association v. Byrd*, a Twenty-First Amendment dispute over a Tennessee law that requires two years of residence in the state before someone is eligible for a license to sell liquor to consumers.

The alliance supports the law as a way of ensuring that retailers "have a connection to the communities in which they do business and thus have a greater incentive than out-of-state retailers to be viewed as law-abiding, responsible sales people by their neighbors and friends."

The alliance's GoFundMe campaign is titled, "**Protect States' Options on Alcohol**" and has raised nearly \$3,000, with a goal of \$5,000.

An organization on the other side of the case also has a GoFundMe page, titled "**Wine Freedom,**" which is an affiliate of the National Association of Wine Retailers. The group opposes state regulations that, among other things, restrict wine shipments from out-of-state wine stores and online retailers.

Wine Freedom has raised more than \$26,000, exceeding its GoFundMe goal of \$25,000. It too includes anonymous donors, but the brief is not due until Dec. 20.

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General Information

Date Filed Mon Dec 10 00:00:00 EST 2018

Citation DK:gml45fklli; gml45fklli

Exhibit B



MISSOURI ETHICS COMMISSION

CONTRIBUTION OF MORE THAN \$5,000.00 RECEIVED BY ANY COMMITTEE FROM ANY SINGLE DONOR - TO BE FILED WITHIN 48 HOURS OF RECEIVING THE CONTRIBUTION

MEC ID: C222296

NAME OF COMMITTEE Liberty and Justice PAC	DATE 9/18/2023
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INSTRUCTIONS

PURPOSE: The purpose of this form is to report within 48 hours the receipt of a single contribution of more than \$5,000.00 received from any single contributor. This information should also be included in the next full disclosure report filed by your committee. Required Pursuant To Section 130.044 RSMo.

1. NAME, ADDRESS AND OCCUPATION (LIST COMMITTEES FIRST)	2. DATE RECEIVED	3. AMOUNT RECEIVED (CHECK IF MONETARY OR IN-KIND)
NAME: The Renco Group Inc ADDRESS: One Rockefeller Plaza CITY / STATE: New York , NY 10020 EMPLOYER: <input type="checkbox"/> COMMITTEE:	9/18/2023	\$ 50,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: ADDRESS: CITY / STATE: EMPLOYER: <input type="checkbox"/> COMMITTEE:		\$ <input type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: ADDRESS: CITY / STATE: EMPLOYER: <input type="checkbox"/> COMMITTEE:		\$ <input type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
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NAME: ADDRESS: CITY / STATE: EMPLOYER: <input type="checkbox"/> COMMITTEE:		\$ <input type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND

Exhibit C



ELECTIONS

NEWS BRIEFS

Andrew Bailey begins fundraising for Missouri AG campaign with help from lobbyist

BY: **JASON HANCOCK** - DECEMBER 12, 2022 11:08 AM



Andrew Bailey was announced as Gov. Mike Parson’s choice to be Missouri attorney general on Nov. 23, 2022 (photo courtesy of Missouri Governor’s Office).

Andrew Bailey has yet to form a political action committee.

So when supporters of the man Gov. Mike Parson tapped to become Missouri’s next attorney general gather Wednesday to raise money for his 2024 campaign, they’ll be writing checks to one of a constellation of PACs affiliated with lobbyist Steve Tilley.

Tilley, a former lawmaker and longtime friend and adviser to Parson, is hosting a fundraiser for Bailey at a hangar his lobbying firm co-owns at Spirit of St. Louis Airport in Chesterfield. Because the donations will [go to one of seven PACs connected to Tilley](#), they are not subject to contribution limits that candidates must abide by.

The PAC in question, called Liberty and Justice PAC, was formed Nov. 14.

Bailey, 41, has never run for public office. He most recently served as Parson's general counsel, and before that worked as an assistant prosecuting attorney in Warren County and as an assistant attorney general.

When he was appointed last month to replace Eric Schmitt – who must resign as attorney general after being elected to the U.S. Senate – Bailey [vowed to run for a full term in 2024](#).

Tilley has been a controversial figure in Missouri politics for years, dating back to his time in House leadership more than a decade ago when [the FBI questioned lawmakers about his efforts](#) to stall a bill impacting how cities charged sales taxes. More recently, Tilley has faced FBI scrutiny over how the state doled out medical marijuana licenses and regarding [a pair of utility contracts in Independence](#).

But he has also become a major fundraiser for GOP candidates, most notably Parson. At one point during the 2020 campaign, for example, [a quarter of every dollar raised by the PAC supporting Parson](#) was connected to Tilley.

With Parson facing term limits, Tilley is [helping Secretary of State Jay Ashcroft](#) raise money for a possible gubernatorial bid in 2024.

Despite the fundraising help from Tilley, Bailey is unlikely to clear out the 2024 GOP primary for attorney general.

Will Scharf, a former assistant U.S. attorney and a key player in Gov. Eric Greitens' brief state administration,

announced last month he would begin raising money for an as-of-yet-undetermined statewide campaign in 2024.

Most assume Scharf has his eye on the attorney general’s race, as his name was floated as a possible replacement for Schmitt.

Former U.S. Attorney Tim Garrison is also considered a possible candidate for attorney general, as is state Sen. Tony Luetkemeyer.

Garrison has yet to form a political action committee, but Luetkemeyer reported \$870,000 in his PAC and another \$300,000 in a PAC set up to support his candidacy.



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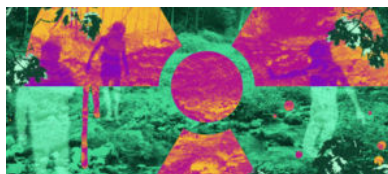
JASON HANCOCK



Jason Hancock has spent two decades covering politics and policy for news organizations across the Midwest, with most of that time focused on the Missouri statehouse as a reporter for The Kansas City Star. A three-time National Headliner Award winner, he helped launch The Missouri Independent in October 2020.

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Exhibit D



MISSOURI ETHICS COMMISSION

CONTRIBUTION OF MORE THAN \$5,000.00 RECEIVED BY ANY COMMITTEE FROM ANY SINGLE DONOR - TO BE FILED WITHIN 48 HOURS OF RECEIVING THE CONTRIBUTION

MEC ID: C180490

NAME OF COMMITTEE Uniting Missouri PAC	DATE 12/14/2018
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INSTRUCTIONS

PURPOSE: The purpose of this form is to report within 48 hours the receipt of a single contribution of more than \$5,000.00 received from any single contributor. This information should also be included in the next full disclosure report filed by your committee. Required Pursuant To Section 130.044 RSMo.

1. NAME, ADDRESS AND OCCUPATION (LIST COMMITTEES FIRST)	2. DATE RECEIVED	3. AMOUNT RECEIVED (CHECK IF MONETARY OR IN-KIND)
NAME: DAVID L STEWARD ADDRESS: PO BOX 1724 CITY/STATE: MARYLAND HEIGHTS, MO 63043 EMPLOYER: WORLD WIDE TECHNOLOGY INC <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 100,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: REX SINQUEFIELD ADDRESS: 244 BENT WALNUT CITY/STATE: WESTPHALIA, MO 65085 EMPLOYER: RETIRED <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 150,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: KEVIN KNASEL ADDRESS: ONE CLAYCHESTER DRIVE CITY/STATE: ST LOUIS, MO 63131 EMPLOYER: PMA HOLDINGS LLC <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 19,800.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: AMEREN MISSOURI ADDRESS: PO BOX 66892 CITY/STATE: ST LOUIS, MO 63166 EMPLOYER: <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 25,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: SPIRE MISSOURI INC ADDRESS: 700 MARKET ST CITY/STATE: ST LOUIS, MO 63101 EMPLOYER: <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 10,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: THE RENCO GROUP INC ADDRESS: ONE ROCKEFELLER PLAZA CITY/STATE: NEW YORK, NY 10020 EMPLOYER: <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 25,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: MISSOURI MINING INVESTMENTS LLC ADDRESS: 1530 S 2ND STREET CITY/STATE: ST LOUIS, MO 63104 EMPLOYER: <input type="checkbox"/> COMMITTEE:	12/14/2018	\$ 25,000.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND
NAME: SUPPORTERS OF HEALTH RESEARCH & TREATMENTS ADDRESS: PO BOX 11591 CITY/STATE: ST LOUIS, MO 63105 EMPLOYER: <input checked="" type="checkbox"/> COMMITTEE:	12/14/2018	\$ 22,400.00 <input checked="" type="checkbox"/> MONETARY <input type="checkbox"/> IN-KIND

(08-2008)

Exhibit E

Parson used private plane of Missouri nursing home exec cited for numerous violations

Jason Hancock

8–10 minutes

Missouri Gov. Mike Parson flew to Washington, D.C., last week on the private plane of a nursing home executive whose company has been investigated for Medicare fraud and accused of numerous health and safety issues.

Parson and his chief of staff, Aaron Willard, traveled to the nation's capital Wednesday, Dec. 11, on a plane belonging to Rick DeStefane, [owner and president of Reliant Care Group LLC](#).

DeStefane accompanied Parson and Willard on the trip. He also shot photos and videos of the flight to D.C., a visit with the governor to the White House, a conversation he witnessed between Parson and Vice President Mike Pence and the flight back to Missouri. He posted them on Snapchat.

The flight followed a fundraiser in St. Louis, attended by Parson, where five nursing home companies combined to donate \$70,000 to Uniting Missouri, a political action committee set up to support his 2020 campaign for governor.

Neither DeStefane nor his company were among the donors that

night. But both have donated thousands to Democratic and Republican candidates in Missouri, including \$25,000 to Parson's 2016 bid for lieutenant governor.

DeStefane personally gave \$2,500 to Parson's 2020 gubernatorial campaign last year. The maximum allowable donation is \$2,600.

The cost of the private flight will either be paid for by Uniting Missouri or DeStefane could contribute the cost of the flight to the PAC as an in-kind donation, said John Hancock, chairman of Uniting Missouri.

Candidates are only allowed to coordinate with independent PACs on fundraising and are prohibited from coordinating on advocacy or messaging. Hancock said Uniting Missouri is covering the cost of the flight because the trip followed its St. Louis fundraiser.

The governor's office said in an email to The Star that Parson and Willard were in Washington, D.C., to attend "[an official event on a public policy matter hosted by the White House.](#)"

In an email to The Star, DeStefane noted that he owns and operates more than 70 companies in the state of Missouri, and said he supports Parson because the governor "has brought stability and economic growth to the state."

DeStefane added that he is "always happy to provide the convenience of my plane, but the governor and I both insist that its use be reported in compliance with state law."

Eric Slusher, spokesman for Parson's likely Democratic opponent in 2020, state Auditor Nicole Galloway, criticized the governor's use of DeStefane's plane, calling Parson a "corrupt career politician."

“While the governor was flying on a private jet giving away access to an insider, Nicole Galloway was [calling grassroots supporters from her car](#) and thanking them for contributing \$5,” Slusher said in an email to The Star. “Team Parson can expect a vigorous campaign that holds him accountable for working exclusively for the well-connected while average Missouri families continue to struggle.”

Medicare settlement

In 2017, The Star reported on [DeStefane’s longtime friendship with then-U.S Sen. Claire McCaskill](#).

As part of that story, The Star detailed allegations of health and safety lapses at DeStefane’s nursing homes, as well as an \$8.3 million settlement with the federal government to end an investigation into charges [his company submitted false claims for unnecessary physical, speech, and occupational therapy to residents](#).

The company denied submitting false claims and said it settled to [avoid a protracted and expensive legal fight](#).

Since The Star’s 2017 story, the company’s nursing homes have continued to face scrutiny from regulators.

Over the last two years, the Bridgewood Health Center in Kansas City has paid more than \$700,000 in fines to the Centers for Medicare & Medicaid Services. Fines are levied when a nursing home gets a serious citation or fails to correct a citation for a long period of time.

On its most recent inspection in March, the facility was [cited for 13 health and safety deficiencies](#), including failure to ensure residents

with mental health disorders received appropriate individual treatment; failure to timely report suspected abuse, neglect, or theft, and report the results of the investigation to proper authorities.

The most recent public inspection records for the company's two other Kansas City facilities show Gregory Ridge Health Care Center received 15 health citations and Parkway Health Center received 22.

The state average is 8.5.

On the issues at Bridgewood, DeStefane said in an email that it “involves a complex situation concerning a facility which provides care to a very unique and complex population not cared for by any other nursing home in the state of Missouri.”

In a 2017 interview with the Hannibal Courier-Post, DeStefane noted that [Reliant is one of the few companies that accepts and treats a large population of patients with mental illnesses and behavioral problems](#). Treating these residents often comes with more challenges, he told the Courier-Post, and that is reflected in yearly inspection reports.

During his time in the state Senate, Parson served on the [Missouri Health Facilities Review Committee](#), a panel that, among other duties, decides whether new nursing homes or assisted living facilities are built in Missouri.

In 2012, Parson tried unsuccessfully to make changes to the committee's proceedings that critics argued [would have made the process more political](#). The change would have given more control of the approval process to a small subcommittee dominated by legislators.

After opposition arose from some long-term care groups, particularly those affiliated with nonprofit homes, the change was abandoned.

In July, Parson signed a bill that [allows nursing homes to have their Medicaid reimbursement rate increased](#) if they invest in improvements to their facilities.

Private plane

Use of private planes has been an issue in Missouri politics for years.

Former Gov. Matt Blunt favored [private flights paid for with campaign money](#) over the state-owned plane because he said it would save taxpayer money. Transparency advocates argued that also made it much harder to know who was ultimately covering the cost of the governor's travel.

The issue reemerged during the short tenure of former Gov. Eric Greitens, after he also [decided to rely on private flights paid for by political donors](#).

It was later revealed that in his first year in office, a state contractor and major campaign donor paid for \$90,000 worth of travel for Greitens — including trips to Washington, Las Vegas and a seaside resort island in Georgia.

Parson still uses the state-owned plane for some official travel, such as a trip to St. Louis last week for the grand opening of the St. Louis aquarium.

Hancock, chairman of Uniting Missouri, said when the governor is in need of a plane to travel for fundraising purposes, Uniting

Missouri picks up the tab by either paying for it or accepting it as an in-kind contribution.

In Oct. 2018, Uniting Missouri reported paying \$634.50 apiece for a trip to Washington, D.C., for Parson and Willard. The governor's official calendar notes he was in D.C. on Tuesday, Oct. 9, and Wednesday, Oct. 10, but doesn't include any detail about his activity during the trip.

In its most recent disclosure forms filed with the state ethics commission, Uniting Missouri reported paying more than \$37,000 to Branson Aircraft LLC for expenses listed as "travel for fundraisers."

According to its filings with the secretary of state's office, Branson Aircraft LLC is connected to Kevin Knasel, who donated \$2,600 to Parson and \$20,000 to Uniting Missouri last December.

In July, Uniting Missouri paid \$634.50 to a company connected to DeStefane, The Big Blessing LLC, for travel expenses. In the past, political candidates who used DeStefane's plane were billed by The Big Blessing.

For example, Democrat Chris Koster's 2016 gubernatorial campaign paid The Big Blessing more than \$64,000 over a two-year period. DeStefane also donated \$30,000 to Koster's campaign during the 2016 campaign, when there were no contribution limits in Missouri.

This story was originally published December 18, 2019, 2:28 PM.





Jason Hancock is The Star's lead political reporter, providing coverage of government and politics on both sides of the state line. A three-time National Headliner Award winner, he has written about politics for more than a decade for news organizations across the Midwest.

Exhibit F

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

January 30, 2019

United States Court of Appeals
For the Eighth Circuit
Thomas F. Eagleton Courthouse
111 South 10th Street
St. Louis, MO 63102

RE: Sister Kate Reid, et al. v. Doe Run Resources Corp., et al.
Nos. 18-3552 & 19-1056

To Whom It May Concern:

It has come to my attention that the business community, as represented by the Missouri Chamber of Commerce, has filed an amicus brief in this matter. We have read the brief and fully support the Chamber's positions.

Missouri's significant interest in protecting all Missourians, and we believe that the impact of the Judge's order opens our courts improperly to foreign litigants, and harms both employees and employers in our State. This type of litigation has already adversely impacted Missouri's economy. Further prosecution of this issue, which by our review of the law does not belong in Missouri Courts nor should it be determined by Missouri law, violates the established and well settled law of comity, and does irreparable harm to our ability to attract and retain companies with foreign assets.

I appreciate your review of this matter that is so important to our great state.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael L. Parson".

Michael L. Parson
Governor

Exhibit G

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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

March 22, 2019

Honorable Michael R. Pompeo
Secretary of State
United States Department of State
2201 C. Street, NW
Washington, DC 20520

Dear Secretary Pompeo:

I am pleased to hear that the Department is continuing to evaluate the issues in this litigation involving the Renco Group, Inc. and The Doe Run Resources Corporation, and thankful for your invitation to contact you for further assistance with this matter.

Our previous correspondence indicated that the State Department does not typically involve itself in litigation at the district court level but rather at the appellate level. As this litigation currently stands, it is in front of the Eighth Circuit Court of Appeals where they are considering the issue of international comity and foreign litigants.

To briefly recount the importance of this litigation, it involves issues of international comity which would affect many Missouri businesses and potentially businesses across the United States. It would do so by creating precedent that would broadly expand the ability of foreign litigants to arbitrarily adjudicate their claims in our courts. In order to protect Missouri businesses and businesses across the nation, I urge the State Department file a statement of interest in this matter.

The impact of your involvement could be significant. To explain, two federal district courts in this litigation have indicated that "[d]ismissal of a case may be warranted when the State Department files a statement of interest...The State Department has not expressed any position on this litigation." Furthermore, the court iterated that the State Department's "silence speaks volumes" with respect to this specific litigation. In other words, the courts in this matter have opined that the absence of State Department interest means that this litigation should move forward and not be dismissed.

Finally, I feel that it is important for me to stress the level of concern already expressed by many other businesses and organizations. For example, both the Missouri Chamber of Commerce, together with the U.S. Chamber Litigation Center have filed an amicus curiae brief in support of the defendant's position on international comity in this case. In addition, Associated Industries of Missouri (an affiliate of the National Association of Manufacturers) have also filed a supportive amicus curiae brief. Needless to say, the business community in Missouri and nationally have significant concerns with this litigation as it relates to foreign litigants.

I thank you for your continued attention to this matter that is so very important to the State of Missouri and its businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Parson".

Michael L. Parson
Governor

Exhibit H




CRIMINAL JUSTICE ELECTIONS GOVERNMENT + POLITICS

Missouri AG drops out of gambling case after taking donations from companies suing state

Andrew Bailey cites unspecified conflict of interest as he turns defense of highway patrol over to private counsel

BY: **RUDI KELLER** - APRIL 25, 2023 3:26 PM



 Missouri Attorney General Andrew Bailey addresses a crowd at the state Supreme Court Building after being sworn into office on Jan. 3, 2023 (photo courtesy of Missouri Governor's Office).

Missouri Attorney General Andrew Bailey's office withdrew last week from a Cole County lawsuit accusing the Missouri State Highway Patrol of harassment and a "concerted campaign of threats" against companies that profit from video games offering cash prizes.

Bailey, who is seeking a full term in office in 2024, has in recent months accepted large campaign contributions from political action committees linked to Steve Tilley, lobbyist for the two companies that brought the lawsuit against the state – Torch Electronics and Warrenton Oil.

The highway patrol and the Department of Public Safety will now be represented by Scott Pool, a Jefferson City lawyer hired regularly when the attorney general's office has a conflict of interest and cannot represent a state agency. Reached by telephone Monday, Pool confirmed he was hired because of a conflict but said he was not told the nature of the issue.

Pool is a former assistant attorney general. He will be paid the standard rate for outside counsel, but Bailey's spokeswoman, Madeline Sieren, would not give an exact amount.

Pool was hired in 2021 to represent Gov. Mike Parson's office and was paid \$140 an hour.

Sieren would not address the nature of the conflict that inspired the attorney general to withdraw from the case.

"Our office followed our longstanding practice of retaining conflict counsel to avoid any appearance of impropriety," Sieren said.

The only thing that has changed in the case since the lawsuit was filed in February 2021 is the occupant of the attorney general's office. Bailey was inaugurated in early January, taking over from Eric Schmitt, who won election last year to the U.S. Senate.

Since 2014, the attorney general's office has had a policy that it will not accept contributions from any company targeted for investigation. Schmitt returned contributions received in June 2021 from Torch owner Steven Miltenberger and his wife, Sondra Miltenberger, after criticism that, because of the ongoing litigation, they could be a conflict of interest.

In mid-April, Bailey reported raising \$305,000 so far for his campaign committee, including \$14,125 in contributions from five political action committees linked to Tilley.

Liberty and Justice PAC, which is supporting Bailey's bid for a full term through independent spending, has raised \$644,000, including \$25,000 from those same Tilley-linked PACs and \$1,000 directly from Warrenton Oil.

The five PACs – Mo Majority, Missouri Senior, Missouri AG, Missouri C and Missouri Growth – accepted \$961,665 during the 2021-22 election cycle, with Torch providing \$361,665 and Warrenton Oil pitching in \$140,000, or a combined 56% of the total.

Torch Electronics, founded in 2015, has placed thousands of its video games in convenience stores, truck stops and other locations across the state. Warrenton Oil, which operates more than 50 convenience stores, has Torch machines in many of its locations.

Starting in 2019, the patrol began a focused enforcement effort on the belief that the machines violate state gambling laws. In 2019 and 2020, the patrol sent more than 200 cases to local prosecutors alleging violations of state gambling laws.

Few criminal cases have been filed, however, and the Cole County lawsuit seeks to quash any future investigations. Torch argues through attorney Chuck Hatfield that its machines are legal.

Under current state law, a game is considered to be gambling if the player risks something of value on a contest of chance or event outside of their control with the expectation of receiving something of value “in the event of a certain outcome.”

Lawmakers have tried unsuccessfully for several years to revise the statute so there is no doubt the games are illegal. The change has been blocked as the legislature has been unable to reach agreement on other gambling issues, including sports betting and authorizing video lottery terminals.

That is a strong argument in Torch’s favor, Hatfield said in an interview with The Independent.

“The fact that the legislature has considered bills to clarify the law tells you that the law does not clearly define what is and is not gambling,” Hatfield said. “If the legislature wants to outlaw these machines, they have the right to do that.”

Torch contends its machines are legal because a player can learn the outcome of any particular game, with any particular wage amount, before risking their money. There is also no chance in any particular outcome, Hatfield wrote in a 2021 court filing.

“Torch amusement devices do not have a metered randomizer or any other random number generator,” Hatfield wrote. “All outcomes on Torch’s amusement devices are pre-determined, finite, and in

sequential order. These pre-determined outcomes cannot be altered.”

While Schmitt was in office, the attorney general accused Torch of improperly seeking to delay criminal investigations through the lawsuit.

The only way to truly determine if the games are illegal is through a criminal prosecution, not a lawsuit to block prosecution, Schmitt’s office wrote.

“Plaintiffs cannot seek equitable relief because they have unclean hands,” assistant attorney general Ross Kaplan wrote in a 2021 filing. “In choosing to conduct a criminal enterprise, despite knowledge of the criminal laws of the state, plaintiffs have subjected themselves to the criminal justice system of the state.”

The lawsuit in Cole County is not the only venue where Torch has gone to court to block prosecutions. In Linn County, Torch sued the local prosecutor after being charged with a felony; both cases were dropped earlier this year after a new prosecutor was elected.

In Greene County, a lawsuit to prevent prosecution was filed after a raid where Torch machines were seized. That case has been dismissed.

Torch itself is being sued in federal court in a case that accuses the company of federal racketeering and state consumer protection law violations. The federal case also names two convenience store companies – Mally Inc. and Warrenton Oil Company – and three individuals as defendants.

The Cole County case is scheduled for a trial beginning July 31. Both Pool and Hatfield said the change of attorneys should not delay the case.

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RUDI KELLER  

Rudi Keller covers the state budget and the legislature. A graduate of the University of Missouri School of Journalism, he spent 22 of his 32 years in journalism covering Missouri government and politics for the Columbia Daily Tribune, where he won awards for spot news and investigative reporting.

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Exhibit I

Missouri governor tried to get St. Louis company's lead-poisoning lawsuits shipped to Peru

Jack Suntrup Dec 16, 2019 0



Children play near their homes in La Oroya, Peru, on Sept. 23, 2003. A smelter owned by St. Louis-based Doe Run Co. looms in the background. Community activists are concerned about lead, sulfur dioxide, cadmium and arsenic emissions generated by the smelter. Lead poisoning can cause behavior disorders, slow growth, impaired learning, anemia and kidney damage. (AP File Photo) STR



Jack Suntrup

JEFFERSON CITY — One month after taking office, Gov. Mike Parson quietly waded into a legal dispute with international implications: more than 3,000 young people from La Oroya, Peru, are suing the Doe Run Resources Corp., accusing the lead company of personal injuries caused by the company's smelter in their town, tucked in the Andes Mountains.

On July 3, 2018, Parson sent a letter to U.S. Secretary of State Mike Pompeo and U.S. Trade Representative Robert Lighthizer asking for "assistance" in moving the litigation from federal court in St. Louis to Peru.

The effort faltered, but the letter from the state's chief executive demonstrates the Maryland Heights-based company's continued pull in Missouri, six years after shutting down its once-notorious smelter in Herculaneum, 30 miles south of St. Louis.

The company, owned by New York-based Renco Group, a holding company controlled by billionaire **Ira L. Rennert**, has argued the case should be transferred to Peru, where the pollution took place. But attorneys for the plaintiffs have successfully argued the case should stay in Missouri, where they said the company operated a "command center" that made management decisions for the La Oroya smelter.

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Exposure to even small amounts of lead can lead to permanent brain damage in children, according to the World Health Organization.

"We intend to obtain justice for these children who were innocent victims of lead poisoning from the actions of Mr. Rennert and his companies," said Jerome Schlichter, of the St. Louis law firm Schlichter Bogard and Denton, the lead attorney in one St. Louis case against Doe Run.

Parson's letter on July 3, 2018, was the first known act by the governor in support of sending Doe Run's legal woes to Peru, but it wasn't the last.

After Pompeo responded on Oct. 30, 2018 to Parson's letter, not committing to any intervention, Parson sent two more letters this year in support of moving the lawsuit — one on Jan. 30 to the 8th U.S. Circuit Court of Appeals in St. Louis and a second on March 22 again to Pompeo.

"The impact of your involvement could be significant," Parson told Pompeo in March, indicating the court could be persuaded to move the case if the State Department were to intervene with a "Statement of Interest."

According to court records, the State Department has taken no official action. Department representatives did not respond to a request for comment.

The Post-Dispatch obtained Parson and Pompeo's correspondence through an open records request.

Kelli Jones, spokeswoman for the governor's office, said Doe Run general counsel Matt Wohl approached the administration about the company's legal problems.

"Our administration felt it can only be fair to have matters of Peruvian law decided in Peru," Jones said, adding that Doe Run's annual economic impact in Missouri is more than \$1 billion.

"Corporations in lawsuits like this will often move to dismiss the case filed in a United States court," said Constance Wagner, professor at St. Louis University's Center for International and Comparative Law. "Plaintiffs would prefer United States courts because our judicial system is viewed as stronger" than courts in developing countries.

"Corporate defendants perceive that foreign courts in poorer/developing countries are weaker and there is less chance of plaintiffs winning a large damages award," she said in an email.

Rennert, Renco and Parson

Rennert helped build his fortune in the 1990s through the issuance of junk bonds by Renco Group subsidiaries, leaving those subsidiaries, including Doe Run, with high-interest debt loads.

Starting in 1995, the Post-Dispatch reported in a 2002 investigation, Rennert's subsidiaries had borrowed \$1.1 billion, transferring \$322 million of the proceeds to the Renco Group.

In 2002, the company was struggling under the weight of its debt obligations, and regulators were concerned about Doe Run's ability to clean up pollution it had caused.

On Dec. 14, 2018, the Renco Group wrote a \$25,000 check to Uniting Missouri, a political action committee in support of Parson's 2020 election bid, according to Missouri Ethics Commission records.

Three days later, Rennert, the Renco chairman and CEO, contributed \$2,500 directly to Parson's campaign, Parson for Missouri, according to the ethics commission.

A review of Missouri state political contributions dating to 2003 shows no other contributions by Rennert or Renco. (Doe Run has contributed to Missouri politicians in the past.)

Jones did not address an emailed question about whether Rennert's contribution factored into Parson's involvement in the case.

She referred questions about the \$25,000 Renco contribution to Uniting Missouri.

John Hancock, chairman of Uniting Missouri, said he hadn't spoken to any Renco representatives about the donation.

"That's the first I've heard of the court case," Hancock said, adding that the contribution represented a small fraction of the \$4.3 million the PAC has on hand.

Jim McCarthy, spokesman for Renco, said the donation to Uniting Missouri came during a fundraiser in St. Louis that included a roundtable discussion with Parson.

"Like virtually every substantial business in Missouri, Doe Run and its employees, through its PAC and others, have long supported a variety of Missouri candidates and officeholders on both sides of the aisle," McCarthy said **in a statement**.

"It should come as no surprise that Renco would also support a governor who is focused on growing the economy in a state where Renco has a substantial investment," he said. "Any actions public officials took in response to these concerns were those that they deemed appropriate to protect and advocate for the interests of Missouri and its citizens."

This isn't the first time Missouri politicians have issued letters of support for Doe Run.

Court records mention a 2007 letter by then-Sen. Christopher S. "Kit" Bond and then-U.S. Rep. Roy Blunt, both of Missouri, to then-U.S. Trade Representative Susan Schwab that supported "due process" for Doe Run in tax litigation in Peru.

Parson sent the Jan. 30 letter to federal court the day before the U.S. and Missouri chambers of commerce filed friend of the court briefs in support of Doe Run.

La Oroya to St. Louis

In 1997, Doe Run acquired the La Oroya smelter from the Peruvian government, at the same time scrutiny surrounding its Herculaneum operation was beginning to intensify.

In 2007, Doe Run Peru became a separate sister company. The company went

bankrupt two years later, and in 2017 the smelter **was put up for auction** by a group of creditors.

The Herculaneum smelter closed in 2013, **following years of upheaval** from local residents exposed to lead and tighter pollution standards by the federal government.

A St. Louis University study in 2005 found virtually all children under 6 in La Oroya, a town of 35,000, had lead in their blood. In 2007, La Oroya was named one of the world's most polluted places, according to a report issued by the Blacksmith Institute that year.

That same year, a group of the children from Peru sued in St. Louis Circuit Court, alleging they were injured by emissions from the Doe Run smelter.

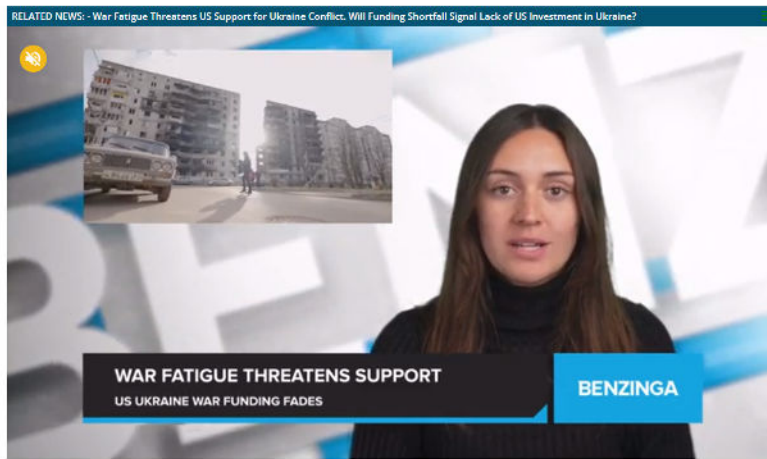
The case was later transferred to U.S. District Court in St. Louis, and lawyers are now in the pretrial evidence-gathering phase. U.S. District Judge Catherine Perry is presiding. She has rejected attempts to move the case.

Schlichter, the lead attorney in the case, said his firm is representing 1,400 plaintiffs, many of whom are no longer minors.

Beyond Renco and Doe Run, the lawsuit also names Rennert and executives, including Marvin Kaiser, Theodore Fox III, Albert Bruce Neil and Jeffrey Zelms.

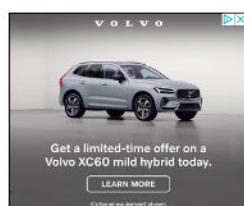
A second case, in the St. Louis courtroom of U.S. District Judge Rodney Sippel, has 1,600 plaintiffs, according to court records.

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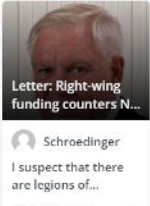


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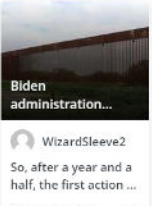
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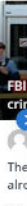
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By Jack Suntrup

Jefferson City reporter



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Oct. 30, 2018 Pompeo letter



Jan. 30, 2019 Parson letter



March 22, 2019 Parson letter



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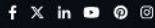


Doe Run Co. smelter to close this week



Limit on lead contamination suits clears Missouri Legislature

Doe Run sought the bill to lessen punitive damages



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