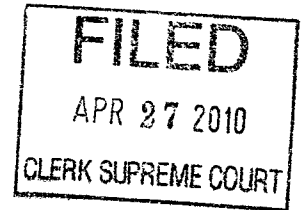


IN THE SUPREME COURT OF IOWA

No. 09-1789

Polk County No. CVCV007415

ORDER



**GEORGE MCMAHON and
BARBARA DOUGLASS,
Petitioners-Appellants,**

and

**CARL OLSEN,
Intervenor-Appellant,**

vs.

**THE IOWA BOARD OF
PHARMACY,
Respondent-Appellee.**

The court has received a statement of the proceedings, or a statement of the evidence, filed by appellants George McMahon and Barbara Douglass pursuant to rule 6.806. Upon consideration, the statement is stricken. As noted in this court's December 30, 2009 order which struck the other appellant's statement of the evidence, a statement filed under rule 6.806 is intended to be a substitute for a court hearing at which no court reporter was present to take a record. Rule 6.806 provides that the statement is to be filed with the clerk of the district court, and is to be settled by the district court.

Appellants' statement contains significant amounts of information which are already reflected in the existing record, and were therefore unnecessarily included. Furthermore, appellants have included statements about proceedings that occurred before the Iowa Board of Pharmacy. By its very nature and the language in the rule, a 6.806 statement can only be filed to substitute for a record of a proceeding held before the district court, and a district court judge may only settle a record for a proceeding that he or she actually presided over.

If the pending motion to affirm is denied, the appellants shall within 14 days of this court's order addressing the motion to affirm file an amended statement of the

evidence with the district court, and a copy with this court, which specifically identifies the proceeding or proceedings before the district court for which it is purported to provide a substitute record. The amended statement shall state the name of the presiding judge for each proceeding, the parties present, and a statement of what occurred at each proceeding to the best of counsel's recollection. The other parties shall then have 14 days to file any response, and the district court judge or judges who presided over these proceedings shall then settle the statement. If appellants instead determine that a statement of the evidence is not necessary to prosecute the issues in this appeal, they shall file a notice to that effect with this court.

Dated this 25 day of April, 2010.



Justice, Supreme Court of Iowa

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