

David A. LUPO, M.D. v. Honorable John LINEBERGER,
Chancellor

92-1168

841 S.W.2d 158

Supreme Court of Arkansas
Opinion delivered November 9, 1992

APPEAL & ERROR — TEMPORARY STAY ISSUED WHILE ISSUES ARE BRIEFED. — The appellate court issued a temporary stay for briefing of issues on a petition for writs of prohibition and certiorari.

Petition for Writs of Certiorari and Prohibition; temporary stay ordered.

Charles L. Schlumberger and Edwin L. Lowther, Jr., for appellant.

No response.

PER CURIAM. Dr. David A. Lupo, the petitioner, seeks writs of prohibition and certiorari to prevent his having to give a deposition as an expert witness involuntarily in the case of William Rodgers, Individually and as Administrator of the Estate of Patricia Rodgers v. Dr. Robert Teryl Brooks, Jefferson County Circuit Court No. 91-439-2-3. Counsel for William Rodgers has subpoenaed Dr. Lupo, contending that he will only be asked "factual" questions rather than for expert opinion. Dr. Lupo asserts that the "facts" he expects to be asked are within his knowledge only because of his status as an expert and he should not have to submit involuntarily to the deposition.

[1] All proceedings, including discovery, in *Rodgers v. Brooks*, are temporarily stayed. Counsel for the petitioner and for the respondent are ordered to brief the issue fully pursuant to Arkansas Supreme Court and Court of Appeals Rule 16 and 7. In addition to the merits of the question presented by the petition, the parties are directed to brief the question of the propriety of a writ of certiorari in the circumstances presented in this case.
