

# **I. Nelson Rose on the Kentucky Internet Gambling Case**

Professor I. Nelson Rose is one of the leading legal minds in the internet gambling industry. He has over 1,000 published works and has testified in gambling-related cases around the United States and around the world. He gave Poker News Daily his thoughts on the events unfolding in Kentucky surrounding the seizure and potential forfeiture of 141 internet gambling domain names by Governor Steve Beshear, whose order was recently upheld by Judge Thomas Wingate.

**Poker News Daily: What went through your mind when you first heard about the case?**

Rose: I thought it was silly. I think that local courts and government officials haven't accepted the reality of the internet. They're having trouble coping with it. The idea that a county judge could seize the worldwide domain names of international companies seems silly.

I also thought that the Judge was probably wrong on the idea that a county judge can grab domain names simply because he considers them contraband. He was wrong on the question of whether there was a violation of Kentucky state anti-gambling law.

Having read the decision, I think it's worse than that. Judge Wingate declares web names to be the same as slot machines. The theory is that it helps with gambling and is therefore a "gambling device." Under that theory, a car is a gambling device because it transports you to play. A house is a gambling device. Money is a gambling device. Everyone knows what a gambling device is.

**PND: What did you believe that Judge Wingate would do?**

Rose: I thought the case would get overturned. The law can't allow every county, every state, and every jurisdiction to decide where the internet is or to have the freedom to seize international website names.

**PND: In your legal eyes, was the ruling by Judge Thomas Wingate appropriate or did it have pitfalls?**

Rose: The easy way out for him would have been to say that domain names are not gambling devices and that Kentucky law doesn't cover it. If the State wanted to have authority over domain names, then the legislature has to pass a specific law.

**PND: Do you think iMEGA's bid to the Kentucky Court of Appeals will be successful?**

Rose: There are a lot of complicated issues. There are a lot of issues surrounding standing and due process in terms of whether everyone was adequately served with notice. A lot of the sites didn't even have representation at any of the hearings. There are also a lot of procedural issues. A lot might get knocked out just based on procedural issues alone. The Constitution of the United States says that you have to give notice to the actual owners and allow them an opportunity to get a lawyer.

**PND: In your opinion, how did this case progress this far, to the point that a final forfeiture hearing is scheduled for December?**

Rose: You have an activist Governor, who is actually in favor of casinos and just doesn't like the internet, and a judge who was willing to go along with him. I don't consider myself to be on one side or another, but I would think that any Appeals Court would look at this and say that there are too many problems with it.

**PND: If one of your clients owned one of the 141 domain names in question, what would you advise them to do?**

Rose: I would advise my clients to block Kentucky residents. There is no real downside to doing that. Kentucky isn't a major market. The Judge made it clear if companies didn't block Kentucky residents, then their name will be forfeited. You don't want to become the test case. All you're giving up is the little market of Kentucky. If a bunch of other states start copying, then you have to fight it, but for now, you have to leave the market even though Kentucky might be in the wrong.