

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

MEDICAL SUPPLY CHAIN, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-0210-CV-ODS
)	
NOVATION, LLC, et al.,)	
)	
Defendants.)	

**DEFENDANTS CURT NONOMAQUE AND ROBERT BAKER’S
MOTION TO DISMISS PLAINTIFF’S COMPLAINT FOR LACK OF
PERSONAL JURISDICTION AND FOR FAILURE TO STATE A CLAIM**

TO THE HONORABLE JUDGE OF THIS COURT:

Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6), Defendants Curt Nonomaque (“Nonomaque”) and Robert Baker (“Baker”) (collectively “Defendants”) submit this Motion to Dismiss Plaintiff’s Complaint for Lack of Personal Jurisdiction and for Failure to State a Claim.

1. Plaintiff has sued Nonomaque and Baker, among numerous other individual defendants, corporations and other entities, under the federal and Missouri antitrust law, the RICO statute, the USA Patriot Act, and Missouri common law theories. Plaintiff seeks several billions of dollars in damage allegedly arising from the obstruction of Plaintiff’s efforts to obtain financing, office space in a particular building in Missouri, and escrow services.

2. All of Plaintiff’s claims against Nonomaque and Baker must be dismissed because this Court lacks personal jurisdiction over Nonomaque and Baker.

3. Nonomaque is a Texas resident who has never resided in Missouri. *See* Affidavit of Curt Nonomaque (“Nonomaque Aff.”) at ¶ 3 (Attached as Exhibit 1). Baker is an Illinois

resident who likewise has never resided in Missouri. *See* Affidavit of Robert Baker (“Baker Aff.”) at ¶ 3 (Attached as Exhibit 2). Neither Baker nor Nonomaque has ever owned real or personal property located in Missouri. Nonomaque Aff. at ¶ 3; Baker Aff. at ¶ 3. Neither Baker nor Nonomaque has solicited a contract with a resident of Missouri. Nonomaque Aff. at ¶ 6; Baker Aff. at ¶ 6. Furthermore, neither individual has ever maintained a mailing address or phone number in Missouri, *see* Nonomaque Aff. at ¶ 4; Baker Aff. at ¶ 4, and neither has any personal employees or agents in Missouri. Nonomaque Aff. at ¶ 5; Baker Aff. at ¶ 5.

4. There is no basis for the exercise of specific jurisdiction over either Nonomaque or Baker. Indeed, Plaintiff’s Complaint does not allege that Nonomaque or Baker performed any tortious act, transacted any business, nor engaged in any conduct in Missouri. Thus, the claims at issue in this case do not relate to any contacts of Defendants with the forum. Thus, the Missouri long arm statute, MO. REV. STAT. § 506.500, does not confer upon this Court *in personam* jurisdiction over Nonomaque or Baker.

5. Moreover, this Court cannot exercise general jurisdiction over these Defendants. Neither Defendant has the minimum contacts with Missouri necessary for general jurisdiction. Neither Defendant has had anything approaching continuous and systematic contacts with Missouri so that they could anticipate being haled into Court in this forum.

6. Neither Defendant resides, is found, has an agent, or transacts his affairs in Missouri for purposes of the RICO service of process statute, *see* 18 USCA § 1965, or the analogous provision under the antitrust laws, *see* 15 U.S.C. § 15.

7. Finally, the exercise of personal jurisdiction over Baker and Nonomaque would offend traditional notions of fair play and substantial justice.

8. Subject to their Motion to Dismiss for Lack of Personal Jurisdiction, Defendants join in the Motion to Dismiss for Failure to State a Claim filed by Defendants Novation, LLC, VHA Inc., and University Healthsystem Consortium.

WHEREFORE, for all of the foregoing reasons, Defendants Nonomaque and Baker pray that this Court dismiss Plaintiff's claims against them and for all other relief to which they are entitled.

REQUEST FOR ORAL ARGUMENT

Defendants Curt Nonomaque and Robert Baker hereby requests oral argument on their Motion to Dismiss Plaintiff's Complaint for Lack of Personal Jurisdiction and for Failure to State a Claim.

HUSCH & EPPENBERGER, LLC

By: /s/ John K. Power
John K. Power, # 35312
Joel K. Goldman, #40453
1200 Main Street, Suite 1700
Kansas City, MO 64105
Telephone: (816) 421-4800
Facsimile: (816) 421-0596

ATTORNEYS FOR DEFENDANTS NOVATION,
LLC, NEOFORMA, INC., ROBERT J. ZOLLARS,
VOLUNTEER HOSPITAL ASSOCIATION,
CURT NONOMAQUE, UNIVERSITY
HEALTHSYSTEM CONSORTIUM, ROBERT J.
BAKER

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2005, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system which will send a notice of electronic filing to the following::

Bret D. Landrith landrithlaw@cox.net
Attorney for Plaintiff

/s/ John K. Power

John K. Power