

IN THE STATE OF MISSOURI
JACKSON COUNTY SIXTEENTH CIRCUIT COURT

SAMUEL K. LIPARI)

Plaintiff)

"s.)

CHAPEL RIDGE MULTIFAMILY, LLC,)

~~)

Defendants.)

Case No. 0916-CV38273

Division 16

RICO Mail and Wire Fraud

RICO Conspiracy

Under U. S. C. § 1961, *et seq.*

SEPARATE DEFENDANT CHAPEL RIDGE MULTIFAMILY, LLC'S SUGGESTIONS IN
OPPOSITION TO PLAINTIFF'S MOTION TO MAKE A MORE DEFINITE
STATEMENT AND TO RE-PLEAD AFFIRMATIVE DEFENSES

Separate defendant, Chapel Ridge Multifamily, LLC ("Chapel Ridge"), by and through its undersigned counsel of record, provides the following suggestions in opposition to Plaintiff's Motion to Make a More Definite Statement Under Rule 55.27(d) and to Adequately Re-Plead Affirmative Defenses 2 Thru 7 or Forfeit Them. Chapel Ridge contends that its answer to Plaintiff's Amended Petition more than adequately complies with the Missouri Rules of Civil Procedure and sufficiently addresses the allegations Plaintiff has asserted against Chapel Ridge, and apprises Plaintiff of Chapel Ridge's affirmative defenses.

Initially, it appears that Plaintiff contends that Chapel Ridge's answer is somehow insufficient because it does not respond to allegations about the alleged conduct of Chapel Ridge's attorneys, who are also defendants in the case, and who have responded separately to the Plaintiff's petition. In fact, Chapel Ridge has specifically acknowledged that the actions of its attorneys in evicting Plaintiff from his apartment were justified because Plaintiff failed to timely pay his rent. If, upon examining Plaintiff's Petition and Chapel Ridge's Answer, this Court

determines that the Answer is deficient in any way, Chapel Ridge will amend its answer upon the request of the Court.

Plaintiff next takes issue with Chapel Ridge's affirmative defenses 2 through 7. Plaintiff acknowledges that the governing standard for affirmative defenses is contained in Missouri Supreme Court Rule 55.08, which states that, "A pleading that sets forth an affirmative defense or avoidance shall contain a short and plain statement of the facts showing that the pleader is entitled to the defense or avoidance." Chapel Ridge has done so, as evidenced by its affirmative defenses, which are as follows:

AFFIRMATIVE DEFENSES

1. Plaintiff's petition fails to establish any cause of action against defendant Chapel Ridge upon which relief can be granted.
2. Plaintiff's petition is undertaken without legal basis or factual justification.
3. The acts of Chapel Ridge in evicting plaintiff for failing to pay his rent were justified.
4. Plaintiff has undertaken this action maliciously and without legal cause, and Chapel Ridge specifically reserves the right to pursue claims for malicious prosecution and/or abuse of process, and to seek costs, expenses and attorneys' fees as a result of plaintiff's frivolous claims.
5. Plaintiff has wrongfully asserted a lis pendens/lien on Chapel Ridge's property.
6. The claims are subject to federal jurisdiction.
7. Service of process was not properly obtained.
8. Chapel Ridge reserves the right to assert any additional affirmative defenses that may be learned during discovery.

These affirmative defenses clearly provide notice to Plaintiff as to the basis for Chapel Ridge's positions, and Chapel Ridge respectfully submits that no further pleading is required. Again, however, in deference to this Court, if the Court determines that additional pleading is required, Chapel Ridge stands ready to do so.

Finally, Plaintiff has improperly chastised Chapel Ridge's undersigned counsel through the e-mail attached as **Exhibit 1** (copied to over fifty lawyers and judges) that the undersigned counsel should be investigated for the "continued misconduct" of failing to serve Chapel Ridge's answer to Plaintiff by e-mail. Chapel Ridge's counsel served the answer on all parties, including Plaintiff, by U.S. Mail, as required by Missouri Rule of Civil Procedure 43.01. As set forth in the attached e-mail, Plaintiff states that he does "not have confidence with service provided through the United States Postal Service" because of his mail and wire fraud claims. Despite Plaintiff's lack of confidence in the postal service, he cannot change the rules of civil procedure to fit his wishes.

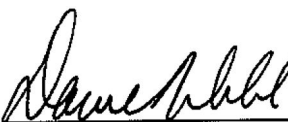
Missouri Rule of Civil Procedure 43.01(c) specifically addresses service by e-mail, and states that "Service to an electronic e-mail address can only be made on those filing a consent to such service substantially in the form of Civil Procedure Form No. 17." A search of the Court's docket in this case does not reveal that Plaintiff has ever filed a consent form, as required by the rules. Accordingly, Chapel Ridge will continue to serve Plaintiff with any pleadings in this case by U.S. Mail to comply with the Missouri Rules. As a courtesy to Plaintiff, however, this pleading is being served on him by both mail and e-mail.

WHEREFORE, for the foregoing reasons, Chapel Ridge respectfully requests that this Court deny the relief sought by Plaintiff, and grant any further relief the Court deems just and proper in the premises.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class mail on this 26th day of February, 2010, to the following, with a courtesy copy to Plaintiff only via e-mail at: "Saml@MedicalSupplyChain.com":

Samuel K. Lipari 803 Lake Drive Independence, MO 64053 And <u>Saml@MedicalSupplyChain.com</u>	Wachovia Dealer Services 8575 W. 110 th St., Suite 100 Overland Park, KS 66210
Swanson Midgley, LLC Christopher Barhorst Holly Fisher James Morrow Executives Hills E Bldg. 10401 Holmes, Suite 300 Kansas City, MO 64131-4509	General Electric Company Missouri Registered Agent CT Corporation System 314 N. Broadway ST. Louis, MO 63102
RegusPLC c/o Regus PLC 22 Grenville St. ST. Helier, Jersey, LV 00000	General Electric Capital Business Asset Funding Corporation Missouri Registered Agent 120 S. Central Ave. Clayton, MO 63105
Regus Management Group, LLC CSC Lawyers Incorporating Service, Inc. Registered Agent 150 S. Perry St. Montgomery, AL 36104	GE Transportation Systems Global Signaling, LLC Missouri Registered Agent CT Corporation System 314 N. Broadway ST. Louis, MO 63102
Lianne Zellmer 2300 Main, Suite 900 Kansas City, MO 64108	Jeffrey R. Immelt, CEO Serve: Jonathan 1. Gleklen Arnold & Porter 555 12TH St. N.W. Washington, DC 20004
Wells Fargo 420 Montgomery St. San Francisco, CA 94163	Troppito & Miller, LLC Chris Troppito Nicholas Ackerman Tony Miller 508 Walnut St. Kansas City, MO 64106


Attorneys for Defendant

Danne Webb

From: Samuel Lipari [Saml@MedicalSupplyChain.com]
 Sent: Friday, February 19, 2010 5:15 PM
 To: enelson@courts.mo.gov; Bough, Stephen R.; Bradley, Suzanne B.; Bresnahan, Hon. Richard C.; Burke, Thomas M.; Casey, Thomas J.; Chazen Friedman, Carol; Comley, Mark W.; Curies, Hon. Charles; Cutler, Dana Tippin; Francka, Brian; Frank, Genevieve M.; Gallas, Alan B.; Gunn, John R.; Halliburton, Richard F.; Henry, Paul G.; Hershewe, Edward J.; Igoe, Jr., Vincent F.; Joyce, Jennifer M.; Kenyon, Marie A.; Kintz, Hon. John F.; Mitchell, Max E.; Mogab, Nancy R.; Neil, Hon. Mark H.; Noland, Douglass F.; Phillips, Megan E.; Reeves, W. Edward; Rice III, Joe P. III; Roubal, Brett W.; Seidel, Allan D.; Sexton, Patricia A.; Shelton, Reuben A.; Simpson, Walter R.; Squibb, Wallace S.; Starke, Patrick B.; Vincent, Hon. David Lee; Vogel, Lynn Ann; Walther, H. A. (Skip); Williams, Raymond E.; Wulff, Eric Joseph; Maune, Jr., Neil F. F.
 Cc: jmorrow@mwklaw.com; apierpoint@mwklaw.com; cbarhorst@swansonmidgley.com; hfisher@swansonmidgley.com; Lianne.Zellmer@regus.com; trm@troppitomiller.com; cmt@troppitomiller.com; jonathan.gleklen@aporter.com; keitha.wright@bryancave.com; C/d@deacylaw.com; nla@troppitomiller.com; john.power@huschblackwell.com; michael.thompson@huschblackwell.com; sean.tassi@huschblackwell.com; Danne Webb
 Subject: 0916-CV38273

Dear Ms. Nelson, I have provided all of the defendants and parties in this case 0916-CV38273 with several notices requesting service electronically thru my email at Saml@MedicalSupplyChain.com.

Because my defendants have previously committed mail and wire fraud with service documents and court filings I do not have confidence with service provided through the United States Postal Service. I just received documents today on the 19th that were mailed on the 12th. Seven days have already expired because Mr. Danne W. Webb with Horn Aylward & Bradley LLC would prefer to continue the misconduct (predicate act) rather than work toward a resolution.

Mr. Danne W. Webb with Horn Aylward & Bradley LLC has intentionally ignored my request and continues to embrace his clients misconduct.

Because Missouri is a self-reporting state I would expect at the very least to inquire into this continued misconduct.

Samuel K. Lipari
 Medical Supply Chain
 803 S. Lake Drive
 Independence, Missouri 64053
 816.507.1328
Saml@MedicalSupplyChain.com
<http://www.MedicalSupplyChain.com/news.htm>

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Exhibit 1