

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MEDICAL SUPPLY CHAIN, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:05-cv-2299-KHV-GLR
)	
NOVATION, LLC, et al.,)	
)	
Defendants.)	

DEFENDANTS’ MEMORANDUM IN OPPOSITION TO PLAINTIFF’S MOTION TO STRIKE DEFENDANTS’ RENEWED MOTION TO DISMISS AND/OR STRIKE

Plaintiff’s Motion to Strike Defendants’ Renewed Motion to Dismiss and/or Strike should be denied. Plaintiff argues, among other things, that Defendants’ Renewed Motion to Dismiss and / or Strike (Document No. 32) constitutes a “second” motion to dismiss prohibited by Rule 12. In fact, defendants have simply *renewed* in this Court their Motion to Dismiss and / or Strike, originally filed in the United States District Court for the Western District of Missouri and which the Missouri court did not address prior to transfer. (See Document No. 6.) Defendants did not assert any new or additional arguments in their renewed motion and simply incorporated by reference their previously filed Memorandum in Support and Reply brief. (Document Nos. 7, 20.) Succinctly, defendants’ renewed motion does not constitute a “second” motion to dismiss and plaintiff’s motion to strike must be denied.

To the extent plaintiff has asserted (in its motion to strike) arguments directed at the substance of Defendants’ Motion to Dismiss and/or Strike, defendants refer the Court to their arguments and authorities previously asserted in Defendants’ Motion to Transfer, Dismiss and / or Strike (Document No. 6), Defendants’ Memorandum in Support (Document No. 7) and Defendants’ Reply in Support of Motion to Transfer, Dismiss and/or Strike (Document No. 20).

WHEREFORE, for the foregoing reasons, defendants respectfully request the Court deny plaintiff's Motion to Strike Defendant's Renewed Motion to Dismiss and/or Strike.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was filed electronically with the above-captioned court, with notice of case activity to be generated and sent electronically by the Clerk of said court (with a copy to be mailed to any individuals who do not receive electronic notice from the Clerk) this 15th day of August, 2005, to:

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