

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE

SAMUEL K. LIPARI,)
 (Assignee of Dissolved)
 Medical Supply Chain, Inc.))
)
 Plaintiff,)
)
 v.)
)
 NOVATION, LLC, et al.,)
)
 Defendants.)

Case No.: 0816-CV-04217

DEFENDANT HUSCH BLACKWELL SANDERS LLP'S
 SUGGESTIONS IN OPPOSITION TO PLAINTIFF'S MOTION FOR
RELIEF FROM JUDGMENT OR ORDER UNDER RSMO RULE 74.06

Plaintiff Samuel K. Lipari has moved the Court to modify its Judgment of Partial Dismissal dated August 8, 2008 ("Judgment") to include an express finding that "there is no just reason for delay." (Pl.'s Mot. for Relief From J.) Plaintiff contends that the Court may "enter a judgment as to one or more but fewer than all of the claims or parties *only* upon an express determination that there is no just reason for delay." (Pl.'s Mot. for Relief From J.) (emphasis added). Plaintiffs contention, however, is misguided.

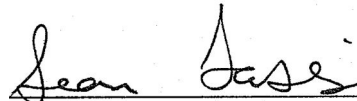
It is well within a trial court's discretion to dismiss fewer than all of the parties to a suit without finding that "there is no just reason for delay." *In re Estate of Caldwell v. Caldwell*, 766 S.W.2d 464,466 (Mo. Ct. App. 1989); *see, e.g., Carney v. Yeager*, 231 S.W.3d 308,310 (Mo. Ct. App. 2007); *Sw. Bell Media, Inc. v. Cummings*, 803 S.W.2d 128, 129 (Mo. Ct. App. 1990). In fact, "an express determination order should not be entered routinely, or as a courtesy or accommodation to counsel." *In re Estate of Caldwell*, 766 S.W.2d at 466. Accordingly, a trial court should only include an express determination order when the court believes that special or exigent circumstances outweigh the overall policy against piecemeal appeals. *Id.* at 466.

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Here, there are no special or exigent circumstances warranting Plaintiffs' desire to piecemeal appeal his case. *See Markham v. Fajatin*, 123 S.W.3d 315, 316 (Mo. Ct. App. 2003) (stating "[p]iecemeal appeals are oppressive and costly, and that optimal appellate review is achieved by allowing appeals only after the entire action is resolved in the trial court"). Plaintiff chose to sue 27 defendants based on intertwined allegations of anti-trust violations, tortious interference with business relations, fraud, and *prima facie* tort. Although the Court has dismissed many of the defendants from this suit, some of the parties and claims still remain pending. Accordingly, justice will be best served if the Court refuses to certify any issue of this case for appeal until judgment has been entered against all parties.

WHEREFORE, Defendant Husch Blackwell Sanders LLP respectfully requests that the Court deny Plaintiffs' Motion for Relief from Judgment or Order Under RSMO 74.06 and not add the phrase "there is no just reason for delay" to the its Judgment of Partial Dismissal.

Respectfully submitted,



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Attorneys for Defendant Rusch Blackwell
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 11 day of November, 2008, to:

Samuel K. Lipari
Medical Supply Chain
3520 Akin Boulevard, #918
Lee's Summit, Missouri 64064-7910
Plaintiff Pro Se

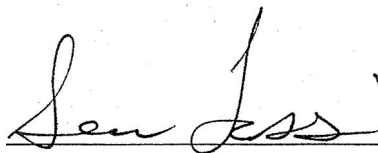
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Attorney for Defendant Lathrop & Gage

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Attorney for Defendants GHX, Novation, Nonomaque and Baker


Attorney

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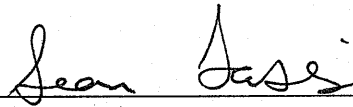
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Respectfully submitted,



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Attorneys for Defendant Husch Blackwell
Sanders LLP

CERTIFICATE OF SERVICE

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Medical Supply Chain
3520 Akin Boulevard, #918
Lee's Summit, Missouri 64064-7910
Plaintiff Pro Se

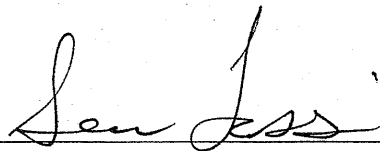
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