

**IN THE STATE OF MISSOURI
JACKSON COUNTY SIXTEENTH CIRCUIT COURT
AT INDEPENDENCE**

| | | |
|--------------------------------|---|-----------------------|
| WACHOVIA DEALER SERVICES, INC. |) | |
| Plaintiff, |) | |
| |) | |
| |) | |
| v. |) | Case No. 0916-CV29828 |
| |) | |
| SAMUEL K. LIPARI, |) | |
| |) | |
| Defendant, |) | |

and

| | | |
|---|---|-----------------------|
| SAMUEL K. LIPARI, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 0916-CV38273 |
| |) | |
| CHAPEL RIDGE MULTIFAMILY LLC, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

**PLAINTIFF’S MOTION
FOR INTERPLEADER UNDER MISSOURI CIVIL PROCEDURE RULE 52.07**

COMES NOW plaintiff/defendant Samuel K. Lipari appearing *pro se* and makes the following motion for Interpleader under Missouri Rule 52.07.

I. STATEMENT OF FACTS

1. In the concurrent case 0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* that is a subject of the plaintiff’s RICO action had a hearing on May 26th, 2010 where the 16th Circuit Judge the Hon. Robert L. Trout was 20 minutes late, appearing to have been receiving *ex parte* instructions from other persons before taking up the matter involving the plaintiff, WELLS FARGO, WACHOVIA DEALER SERVICES INC, TROPBITO & MILLER LLC, CHRIS M. TROPBITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER, in the plaintiff’s RICO action Case No. 0916-CV38273.
2. The Hon. Judge Robert L. Trout appeared to participate in a pre-planned exercise with his clerk and the Missouri licensed attorney TONY R. MILLER that had TONY R. MILLER reaching into the court file and removing the plaintiff’s exhibits in the plaintiff’s answer to the petition of WACHOVIA DEALER

SERVICES INC. brought by TROPBITO & MILLER LLC.

3. The plaintiff's exhibits in the plaintiff's answer were evidence of fraudulent statements to the court made by the Missouri licensed attorneys TONY R. MILLER, CHRIS M. TROPBITO, and NICHOLAS L.

ACKERMAN to procure the business property of the plaintiff through fraud in violation of statutory notice requirements.

4. The hearing on May 26th was scheduled on March 24, 2010 when the 16th Circuit Judge the Hon.

Robert L. Trout repeatedly tried without success to have the plaintiff voluntarily withdraw his answer to the petition of WACHOVIA DEALER SERVICES INC. detailing the frauds and statutory violations of

TROPBITO & MILLER LLC, CHRIS M. TROPBITO, NICHOLAS L. ACKERMAN, and TONY R.

MILLER in their petition and representations to the court on behalf of WACHOVIA DEALER SERVICES INC.

5. The initial hearing took place before the Hon. Judge Robert L. Trout on Dec. 16, 2009 when a similar 20 minute delayed appearance of Hon. Judge Robert L. Trout gave the appearance Hon. Judge Robert L. Trout

had been surprised and confused by ex parte instructions from other persons before taking up the matter involving the plaintiff, WELLS FARGO, WACHOVIA DEALER SERVICES INC, TROPBITO &

MILLER LLC, CHRIS M. TROPBITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER.

6. During the Dec. 16, 2009 hearing, Hon. Judge Robert L. Trout appeared unfamiliar with the plaintiff's

filed answer and had the plaintiff explain the exhibits showing the fraud on the court of TROPBITO & MILLER LLC, CHRIS M. TROPBITO, NICHOLAS L. ACKERMAN, and TONY R. MILLER in their

attempt to procure a judgment through fraud to convert the plaintiff's business property in violation of statutory notice requirements.

7. The frauds on the 16th Circuit Court by TROPBITO & MILLER LLC, CHRIS M. TROPBITO,

NICHOLAS L. ACKERMAN, and TONY R. MILLER as agents on behalf WELLS FARGO and

WACHOVIA DEALER SERVICES INC are detailed at in the plaintiff's petition in the plaintiff's RICO action and at in the plaintiff's amended petition.

8. Hon. Judge Robert L. Trout scheduled a **fifth hearing** and **another approximately 90 day delay** in

0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* on March 24, 2010, a

hearing which itself was delayed approximately 60 days because of CHRIS M. TROPBITO of TROPBITO

& MILLER LLC misrepresentations to Hon. Judge Robert L. Trout that the plaintiff's RICO action was baseless and would be dismissed.

9. The court in 0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* now states it has no shelf space for exhibits documenting frauds of attorneys practicing before it.

10. CHRIS M. TROPPILO of TROPPILO & MILLER LLC has appeared in person several times representing WACHOVIA DEALER SERVICES INC in the 16th Circuit Court while evading service of process by 16th Circuit Court at his last registered address as a Missouri licensed attorney.

11. The court in 0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* appeared to have granted a motion for leave to amend WACHOVIA DEALER SERVICES INC petition and causes of action in their entirety without requiring the plaintiff WACHOVIA DEALER SERVICES INC and its attorney TONY R. MILLER of TROPPILO & MILLER LLC to file the motion for leave to amend with the court or serve it on the plaintiff/defendant SAMUEL K. LIPARI and allow him the days provided under the Missouri Rules of Civil Procedure to respond in opposition to the WACHOVIA DEALER SERVICES INC motion for leave to amend.

12. The Missouri Case Net appearance docket on May 27th, 2010 however contained the notation that the hearing had been rescheduled and gave the appearance that the May 26th, 2010 hearing had not resulted in any order by on any motion of WACHOVIA DEALER SERVICES INC.

13. The plaintiff believes he is under a present and likely threat to his rights to Procedural and Substantive Due Process resulting from persons exercising ex parte influence over 16th Circuit Court personnel in order to corruptly obtain an outcome in the case 0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* for the purpose of obstructing justice in the plaintiff's RICO action Case No. 0916-CV38273.

14. The plaintiff believes he is under a present and likely threat of damages, attorneys' fees and sanctions (a favored tactic of Novation LLC cartel members attorneys to cause a plaintiff to be sanctioned for being correct at law in order to demonstrate their corrupt control over a court) that will be inappropriately duplicated if both actions proceed separately.

15. WELLS FARGO, WACHOVIA DEALER SERVICES INC, TROPPILO & MILLER LLC, CHRIS M. TROPPILO, NICHOLAS L. ACKERMAN, and TONY R. MILLER completed their RICO predicate acts

and cemented their liability as Novation LLC cartel RICO co-conspirators for the purposes of the plaintiff's RICO action Case No. 0916-CV38273 when CHRIS M. TROPPILO of TROPPILO & MILLER LLC obtained the plaintiff's Audi business car (tangible business property giving standing for a RICO claim) at the hearing on Dec. 16, 2009 through the mail and wire frauds of WELLS FARGO, WACHOVIA DEALER SERVICES INC, TROPPILO & MILLER LLC, CHRIS M. TROPPILO, NICHOLAS L. ACKERMAN, and TONY R. MILLER.

16. No outcome in 0916-CV29828 - *WACHOVIA DEALER SERVICES INC v SAMUEL K LIPARI* has the potential to alter WELLS FARGO, WACHOVIA DEALER SERVICES INC, TROPPILO & MILLER LLC, CHRIS M. TROPPILO, NICHOLAS L. ACKERMAN, and TONY R. MILLER's liability in the plaintiff's RICO action Case No. 0916-CV38273 under the plaintiff/defendant SAMUEL K LIPARI's Amended Petition.

II. SUGGESTION IN SUPPORT

The plaintiff/defendant SAMUEL K LIPARI wishes to join the above captioned actions to facilitate adjudication of the matters on the merits. Discovery will be needlessly duplicative and burdensome to all parties if joinder is not permitted. Interpleading appears to be appropriate to accomplish this goal. All claims arose in Jackson County, Missouri so venue questions that have become an issue in similar motions seeking permissive joinder under Rule 52.05(a) should be satisfied.

Missouri Rule 52.07 Interpleader states:

“Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers no liability in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this Rule 52.07 supplement and do not in any way limit the joinder of parties permitted in Rule 52.05.”

Rule 52.05(a) permits permissive joinder of defendants in separate cases “aris [ing] out of the same transaction, occurrences or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action.” (emphasis added).

This rule permits permissive joinder of defendants in separate cases arising out of a series of transactions or occurrences if any question of law or fact common to them will arise in the action. This Court's holding in *State ex rel. Jinkerson v. Koehr*, 826 S.W.2d 346 (Mo. banc 1992), is distinguished. There, the accidents occurred in different counties and neither defendant lived where the plaintiff brought suit, so venue there was not proper as to both defendants. As such, permissive joinder was barred, but only as it pertained to venue. Here, however, venue is not an issue, as the accidents occurred in the same county, making venue proper as to both defendants. *Jinkerson* should not be read as overruling the allowance of permissive joinder in *Hager v. McGlynn*, 518 S.W.2d 173 (Mo. App. 1974). Additionally, *Sims v. Sanders*, 886 S.W.2d 718 (Mo. App. 1994), is incorrect to the extent it recognizes only a "transaction or occurrence" but not the "series of transactions or occurrences" that Rule 52.05(a) includes. The two discrete accidents involved in Nixon's claim constitute a "series of occurrences" as described in the rule. They were in temporal succession, and they are related by the common factual question as to the origin of Nixon's injuries. This is consistent with federal courts' interpretation of the same permissive joinder language in the federal rules of civil procedure. Although the permissive joinder rule does not always require defendants to be tried together, doing so here prevents multiple, duplicative trials and increases the jury's ability to apportion liability and damages accurately.

CONCLUSION

Whereas for the above reasons, plaintiff/defendant SAMUEL K LIPARI respectfully requests the court join the above captioned actions to facilitate adjudication of the matters on the merits.

Respectfully submitted,

S/ Samuel K. Lipari

SAMUEL K. LIPARI
PLAINTIFF *PRO SE*.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded this 28th day of May 2010 by hand delivery, by first class mail postage prepaid, or by email to:

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