

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

SAMUEL K. LIPARI,)	
)	
Plaintiff,)	
)	
v.)	Case No. 0916-CV38273
)	Division 15
CHAPEL RIDGE MULTIFAMILY LLC, <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFF’S REPLY
TO DEFENDANT CHAPEL RIDGE MULTIFAMILY LLC’S
OPPOSITION TO THE 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**

The petitioner Samuel K. Lipari gives the following suggestions of law revealing the frivolousness of CHAPEL RIDGE MULTIFAMILY LLC’s opposition to the 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. The plaintiff respectfully requests the defendant CHAPEL RIDGE MULTIFAMILY LLC be ordered to make a more definite statement of its answer to the Amended Petition and that the defendant CHAPEL RIDGE MULTIFAMILY LLC be ordered to adequately plead affirmative defenses or forfeit them. The plaintiff separately has made a motion to strike the defendant CHAPEL RIDGE MULTIFAMILY LLC’s responsive Motion to Dismiss as untimely.

STATEMENT OF FACTS

1. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC does not provide any statute or case precedent authority to support its failure to admit or deny each separate allegation of the plaintiff in the Amended Petition based on the knowledge of CHAPEL RIDGE MULTIFAMILY LLC’s principals, employees, and agents.

A. Defendants Assertion Plaintiff Only Sought Defendant’s Attorneys to Admit or Deny Averments

2. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC alleges that the plaintiff was only seeking a more definite answer regarding the conduct of CHAPEL RIDGE

MULTIFAMILY LLC's agent attorneys:

“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.”

CHAPEL RIDGE MULTIFAMILY LLC SIO at pg. 1

3. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC does not provide any statute or case precedent authority to contradict the plaintiff's Motion for a More Definite Answer's contention that CHAPEL RIDGE MULTIFAMILY LLC's conclusory and factually insufficient denials of material allegations constitute a mere general denial.

B. Defendants Assertion its Affirmative Defenses Clearly Provide Notice To Plaintiff

4. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC does not provide any statute or case precedent authority to contradict the plaintiff's Motion for a More Definite Answer's contention that CHAPEL RIDGE MULTIFAMILY LLC's affirmative defenses are conclusory and factually insufficient to state any affirmative defense except “Failure To State A Claim” in which the defendants are privileged under Missouri law to assert even if it is frivolous.

5. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC implies that because CHAPEL RIDGE MULTIFAMILY LLC affirmative defenses 2 through 7 copy exactly the title of the affirmative defenses as they are listed in Missouri Supreme Court Rule 55.08 that the affirmative defenses must therefore give adequate constitutional notice. CHAPEL RIDGE MULTIFAMILY LLC SIO at pgs. 2-3

6. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC does not argue or present a factual basis for this court deviating from the controlling law of the State of Missouri including Missouri Supreme Court precedents raised by the plaintiff in pages of his motion for a more definite statement that require the defendant's affirmative defenses 2 through 7 to be dismissed.

C. Defendant's New Issue of E-Mail Service

7. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC at page 3 raises

the new issue of the plaintiff's repeated requests to the parties that pleadings get e-mailed.

8. The answering Suggestion in Opposition by CHAPEL RIDGE MULTIFAMILY LLC points out that CHAPEL RIDGE MULTIFAMILY LLC is in compliance with Missouri Rule of Civil Procedure 43.01 by serving the answer on all parties, including the Plaintiff via U.S. Mail.

SUGGESTION AT LAW

The separate defendant, CHAPEL RIDGE MULTIFAMILY, LLC through the representation of Horn, Aylward, & Bandy, LLC via its attorney Danne W. Webb (MO lic. #39384) has taken a novel approach to defending itself before this Missouri court. CHAPEL RIDGE MULTIFAMILY, LLC has answered the plaintiff's motion for a more definite statement with a answer purporting to oppose the plaintiff's requests but providing no opposing case law precedents to counter the interpretations of the Missouri statues covering a responsive pleading to a petition in the Missouri Supreme Court and Missouri Courts of Appeals authorities cited by the plaintiff. CHAPEL RIDGE MULTIFAMILY, LLC's answer in opposition to a more definite statement in answer and for more definite affirmative defenses also fails to raise any facts in contention that might provide this court a basis for deviating from the controlling case law of this state requiring it to grant the plaintiff's motion.

CHAPEL RIDGE MULTIFAMILY LLC's response to the plaintiff's motion for a more definite statement raises a new issue not material to the plaintiff's motion concerning the plaintiff's request that the parties e-mail pleadings. The defendant CHAPEL RIDGE MULTIFAMILY LLC is correct that the plaintiff has not filed a consent to e-mail service under Missouri Rule of Civil Procedure 43.01(c). However the defendants mistake the service rules as a suspension of professional courtesy and a furthering of the public interest in rapidly resolving the issues raised by this action in a manner that will fully conform to the laws of the State of Missouri and the federal racketeering statutes as interpreted by federal courts. As the failure of the diligence of each of the defendants' counsel has shown, RICO statutes and their defining federal controlling precedent is extraordinarily complicated. The defendants' practice of producing pleadings on word searchable computer word processing software, then converting them to paper for delivery by U.S. Mail or scanning them as paper documents to redigitize them in a non word searchable format causes unnecessary difficulty for other parties and the court.

Sending out only paper copies of pleadings via U.S. Mail or scanning paper to e-mail a non word searchable pleading is only leading to the unnecessary deaths of more Missouri citizens under the facts of this case where the defendants are alleged to have joined an ongoing conspiracy with the Novation LLC hospital supply RICO enterprise and to have committed unlawful acts in furtherance of the Novation LLC RICO conspiracy to restrain trade in hospital supplies.

The reluctant compliance by Horn, Aylward, & Bandy, LLC with the plaintiff's request to send e-mail copies of pleadings as a courtesy demonstrates the problem CHAPEL RIDGE MULTIFAMILY LLC has in not being able to refute the material evidence created by their own agents and the unlawful acts committed at CHAPEL RIDGE MULTIFAMILY LLC's instruction even with notice of their unlawfulness under the RICO statutes. Horn, Aylward, & Bandy, LLC like the defendant SWANSON MIDGLEY, LLC acting as CHAPEL RIDGE MULTIFAMILY LLC's agent to injure the plaintiff as described in the petition and amended petition, can provide no reason at law why the plaintiff's petition for redress under RICO statutes cannot be granted. Yet Horn, Aylward, & Bandy, LLC is still filing frivolous pleadings that increase the costs and time CHAPEL RIDGE MULTIFAMILY LLC will ultimately be responsible for.

Neither SWANSON MIDGLEY, LLC nor its insurer can lawfully reimburse CHAPEL RIDGE MULTIFAMILY LLC for liability created by acts of racketeering because doing so under the controlling case law is adverse to public policy. RICO violations and antitrust liability are usually not indemnifiable. See *Sequa Corp. v. Gemlin*, 851 F. Supp. 106 (S.D.N.Y. 1993). By statute, liability under the Foreign Corrupt Practices Act is not indemnifiable. 15 U.S.C. §§ 78ff(c)(4), 78dd-2(b)(4). Any advancement of defense costs to the CHAPEL RIDGE MULTIFAMILY LLC by a publicly held company such as J.C. Nichols Co. is also prohibited by section 402 of the Sarbanes-Oxley Act.

CHAPEL RIDGE MULTIFAMILY LLC's conclusory and factually insufficient denials of material allegations constitute a **general denial**. Horn, Aylward, & Bandy, LLC has not researched the effect of a general denial or in the alternative, CHAPEL RIDGE MULTIFAMILY LLC having received payment vouchers in return for apartments near the plaintiff's used by Lee's Summit police officers that were members of a joint federal and state task force for surveilling the plaintiff and/or having received instructions on committing unlawful acts from rogue Western District of Missouri Assistant U S Attorneys and F.B.I. officials regarding the plaintiff's offer of payment in full through the FTCPA form knows that

defending against the plaintiff's claims is futile. Discovery will merely show CHAPEL RIDGE MULTIFAMILY LLC was invited to break the law and injure the plaintiff's business for the purpose of furthering the Novation LLC RICO enterprise's conspiracy to restrain trade in hospital supplies.

Under Missouri law the effect of CHAPEL RIDGE MULTIFAMILY LLC's general denial in an answer to the Amended Petition is an admission and eliminates support for affirmative defenses:

"It was decided that the plea following the general denial in the answer amounted to a plea of confession and avoidance; that, in consequence, the general denial first pleaded raised no issue, and hence 'the motion for judgment upon the ground of nonuser should be sustained.'"

Delmar Jockey Club v. State Of Missouri, 210 U.S. 324 at ¶3, (US 1908).

By failing to support CHAPEL RIDGE MULTIFAMILY LLC with any case law precedent or statutory authority, Danne W. Webb (MO lic. #39384) of Horn, Aylward, & Bandy, LLC has defended against the plaintiff's motion for a more definite statement in the same fatally flawed way CHAPEL RIDGE MULTIFAMILY LLC answered the plaintiff's Amended Petition with a general denial. Without a more detailed answer showing factual issues in dispute, the Amended Petition with its supporting sworn affidavit and evidentiary documents created and signed by SWANSON MIDGLEY, LLC attorneys acting as the agents of CHAPEL RIDGE MULTIFAMILY LLC acts as a summary judgment requiring this court to enter a judgment of liability against CHAPEL RIDGE MULTIFAMILY LLC.

CONCLUSION

Whereas for the above reasons, the plaintiff respectfully requests the court require the defendant CHAPEL RIDGE MULTIFAMILY, LLC to make a more definite statement under Rule 55.27(d) and to adequately re-plead affirmative defenses 2 thru 7 or forfeit them.

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 8th day of March 2010 by hand delivery, by first class mail postage prepaid, or by email to:

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