

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
KANSAS CITY, KANSAS**

<b>MEDICAL SUPPLY CHAIN, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 05-2299-CM</b>
	)	
<b>NOVATION, LLC, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**SHUGHART THOMSON & KILROY’S OPPOSITION TO  
PLAINTIFF’S MOTION FOR RECONSIDERATION**

NOW THEREFORE, for its opposition to the Motion for Reconsideration filed by Mr. Samuel K. Lipari, allegedly on behalf of plaintiff, Medical Supply Chain, Inc., Shughart Thomson & Kilroy states as follows:

1. On March 7, 2006, this Court entered its Memorandum and Order, ruling upon several various pending motions, including defendants’ motions to dismiss. As a result thereof, plaintiff’s claims have been dismissed.

2. On March 14, 2006, plaintiff’s CEO, Mr. Samuel K. Lipari, discharged his legal counsel and purported to enter his appearance, pro se, on behalf of Medical Supply Chain, Inc. Lipari then filed a motion for reconsideration of the March 7, 2006 Order. Such motion must be denied on both procedural and substantive grounds.

3. Procedural Grounds for Denial

a. Mr. Lipari is not a party plaintiff in this case, but instead has simply inserted his name into the caption of the case as a “party in interest.” He is not a plaintiff, and cannot unilaterally substitute himself as such.

b. There is no substantive reason for a request by Mr. Lipari to be substituted as a plaintiff for the corporation in this action. Pursuant to K.S.A. § 17-6807, corporations have the capacity to sue and to be sued for three years after their date of dissolution.

c. Rather, Mr. Lipari is aware that as a non-attorney, he is prohibited from representing the corporation. Such is in fact the unauthorized practice of law. For that reason, Mr. Lipari is attempting to make himself an individual defendant so that he has the ability to represent himself, pro se.

d. Procedurally, the Local Rules of Civil Procedure for the District of Kansas, Rule 7.3(a), provides that “reconsideration” of dispositive orders is only permitted in the form of a motion for new trial, pursuant to Fed. R. Civ. P. 59 (inapplicable here) or a motion for relief from a judgment or order, pursuant to Fed. R. Civ. P. 60. Plaintiff’s motion cites to no relevant justification under Fed.R.Civ. 60 for reconsidering the Memorandum and Order (see para. 4, below).

4. Substantive grounds for denial - Lipari’s motion for reconsideration of the Court’s March 7, 2006 Memorandum and Order cites no new arguments, no new evidence and no new law. Nothing new is included within the motion for reconsideration which was not previously briefed and considered by this Court in the Memorandum and Order (and in each previous ruling on the same issues.) In particular, when the issues in this particular case have been considered on multiple occasions by multiple courts, reconsideration would be an extraordinary further waste of judicial resources.

5. Shughart Thomson & Kilroy incorporates herein its previously filed motion to dismiss, memoranda in support and the arguments, authorities and evidence relied upon therein.

6. As noted by this Court in its Memorandum and Order granting sanctions, this case has continued far too long, totally without legal basis. It should not be allowed to continue further.

WHEREFORE, for the above and foregoing reasons, Samuel K. Lipari's Motion for Reconsideration should be denied, defendants be awarded there costs herein, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Kathleen A. Hardee  
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ATTORNEYS FOR DEFENDANT SHUGHART  
THOMSON & KILROY

**CERTIFICATE OF SERVICE**

I hereby certify a true and correct copy of the above item was filed in PDF format with the Court pursuant to its *Case Management / Electronic Case Files* program and thereby a notice of filing was e-mailed to counsel of record herein, all on the 21 day of March, 2006.

/s/ Kathleen A. Hardee  
Attorney for Defendant