

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

MEDICAL SUPPLY CHAIN, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-0210-CV-ODS
)	
NOVATION, LLC, et al.,)	
)	
Defendants.)	

DEFENDANTS’ MOTION FOR SANCTIONS

Defendants US Bancorp, U.S. Bank National Association, Piper Jaffray Companies, Jerry A. Grundhofer, Andrew Cecere and Andrew S. Duff (hereinafter collectively referred to as “defendants”), pursuant to Fed. R. Civ. P. 11 and 28 U.S.C. § 1927, move this Court for its Order imposing sanctions against plaintiff Medical Supply Chain, Inc. (“Medical Supply Chain”), and its counsel Bret Landrith (“Landrith”). Defendants request that they be awarded their expenses and reasonable attorneys’ fees incurred in defending this lawsuit as well as expenses and attorneys’ fees incurred in preparing and presenting this motion and suggestions in support. In further support of this motion, defendants state:

1. Plaintiff filed its Complaint in this case on March 7, 2005.
2. In this lawsuit, plaintiff asserts many of the same underlying purported “facts,” conduct and many of the same claims against these defendants (or those in privity with them) already dismissed by the Kansas District Court and affirmed by the Tenth Circuit Court of Appeals in *Medical Supply Chain, Inc. v. US Bancorp, et al.*, Case No. 02-2539-CM. Many of the same facts alleged in this case also were alleged in another suit dismissed as to Medical Supply Chain. *Medical Supply Chain, Inc. v. General Elec. Co., et al.*, Case No. 03-2324-CM. Defendants have thus filed motions to dismiss the current lawsuit on a number of separate grounds.

3. Plaintiff has filed additional frivolous and unsupported claims in this lawsuit, including claims against the law firm of “Shughart Thomson & Kilroy, P.C. Watkins Boulware,” and has even implicated a current member of the Federal Bench as a participant in conduct it claims constitutes racketeering activity.

4. By filing this frivolous lawsuit, plaintiff and plaintiff’s counsel have violated Fed. R. Civ. P. 11 and 28 U.S.C. § 1927 and are liable to defendants for their expenses and reasonable attorneys’ fees incurred in defending this lawsuit and preparing and presenting this motion.

5. Pursuant to Fed. R. Civ. P. 11(1)(A), defendants served this motion on plaintiff’s counsel at least twenty-one (21) days before this Motion was filed with the Court. Counsel has refused to withdraw the objectionable pleading.

WHEREFORE, for these reasons and as more fully stated in the accompanying suggestions in support which are hereby incorporated, defendants pray this Court enter its Order sanctioning plaintiff and plaintiff’s counsel under Rule 11 and/or § 1927, including striking the Complaint in this case, that defendants be awarded their expenses and reasonable attorneys’ fees incurred in defending this lawsuit, preparing and presenting this motion and any other further monetary relief this Court deems just and reasonable.

Respectfully submitted,

/s/ Mark A. Olthoff

MARK A. OLTHOFF	#38572
JONATHAN H. GREGOR	#50443
LOGAN W. OVERMAN	#55002
SHUGHART THOMSON & KILROY, P.C.	
120 W 12th Street, Suite 1700	
Kansas City, Missouri 64105-1929	
(816) 421-3355	
(816) 374-0509 (FAX)	

ANDREW M. DeMAREA KS #16141
SHUGHART THOMSON & KILROY, P.C.
32 Corporate Woods, Suite 1100
9225 Indian Creek Parkway
Overland Park, Kansas 66210
(913) 451-3355
(913) 451-3361 (FAX)

ATTORNEYS FOR DEFENDANTS US
BANCORP, U.S. NATIONAL ASSOCIATION,
PIPER JAFFRAY COMPANIES, JERRY A.
GRUNDHOFER, ANDREW CECERE AND
ANDREW S. DUFF

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 _____ day of May, 2005, to:

Bret D. Landrith, Esq.
#G33
2961 SW Central Park
Topeka, KS 66611

Attorney for Plaintiff

John K. Power, Esq.
Husch & Eppenberger, LLC
1700 One Kansas City Place
1200 Main Street
Kansas City, MO 64105-2122

Stephen N. Roberts, Esq.
Natausha Wilson, Esq.
Nossaman, Guthner, Knox & Elliott
34th Floor
50 California Street
San Francisco, CA 94111

Bruce Blefeld, Esq.
Kathleen Bone Spangler, Esq.
Vinson & Elkins L.L.P.
2300 First City Tower
1001 Fannin
Houston, TX 77002

Attorneys for Defendants

/s/ Mark A. Olthoff
Attorney for Defendants