

**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.)	

NOTICE OF APPEAL

COMES NOW Plaintiff Samuel K. Lipari appearing *pro se* and makes the following Notice of Appeal for the following reasons showing the trial court lacked jurisdiction to dismiss the action after the plaintiff's change of venue was filed, and without motions to dismiss all claims brought in the petition, and before all of the defendants were served.

The plaintiff appeals for the following reasons:

1. The defendants' Motions to Dismiss were partial and did not seek to dismiss the plaintiff's RICO 18 U. S. C. § 1962 (d) claims against the defendants CHAPEL RIDGE MULTIFAMILY LLC, SWANSON MIDGLEY LLC, CHRISTOPHER BARHORST, HOLLY L. FISHER, TROPBITO & MILLER LLC, and TONY R. MILLER.
2. THE defendants' Motions to Dismiss misrepresented the controlling federal law on whether the plaintiff stated claims for predicate acts under 18 U. S. C. § 1962 (c) in a continuing multi year RICO enterprise.
3. Two defendants CHRIS M. TROPBITO, and NICHOLAS L. ACKERMAN have not been served according to the appearance docket and the defendant WELLS FARGO COMPANY has asserted it has not been served, preventing the trial court from dismissing the plaintiff's action with prejudice under controlling Western District precedent in *Habahbeh v. Beruti*, 100 S.W.3d 851 (Mo. App., 2003).
4. The plaintiff filed a timely motion for change of venue, along with a motion for interpleader and a response to WELLS FARGO's Motion for order on Friday May 28th, 2010 and no

ruling had been made in the present action. See Exhibit 1 appearance docket at 930 am Friday May 28th, 2010.

5. The ministerial function of the 16th Circuit Clerk's office interfered with docketing the Motion to Change Venue. See Exhibit 2 appearance docket showing plaintiff's motions docketed *before* the court's purported order.
6. The plaintiff obtained a file stamped copy of his Motion to Change Venue filed with the other motions. See Exhibit 3 file stamped copy of Motion to Change Venue.
7. The contents of the Motion to Change Venue details repeated and continuing ministerial interference by the 16th Circuit Clerk's office and other state agencies in Jackson County requiring change of venue.
8. The timely Motion to Change Venue was automatic in effect and deprived the trial court of the jurisdiction to enter dismissals of parties in this action under *State Lebanon School District III v. Winfrey State ex rel. Lebanon School District R-III, v. The Honorable Larry WINFREY*, Case No. SC 86873 (January 31, 2006).
9. The plaintiff/appellant has included a proposed Western District of the State of Missouri Court of Appeals Order reversing Hon. Judge John M. Torrence's dismissal.

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 1st day of June 2010 by hand delivery, by first class mail postage prepaid, or by email to:

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