

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES OF THE AUTOMOBILE)	
MECHANICS LOCAL NO. 701 PENSION)	
AND WELFARE FUNDS,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 7217
)	
UNION BANK OF CALIFORNIA, N.A.,)	
)	
Defendant.)	

MEMORANDUM ORDER

Segal Advisors, Inc. ("Segal Advisors") has filed its Answer to the Amended Fourth Party Complaint in this action. This memorandum order is issued sua sponte because of a virtually all-pervasive problematic aspect of that responsive pleading.

Most of Segal Advisors' responses (Answer ¶¶2, 4-8, 10-22, 24-28, 30-32, 34-37, 39, 40, 42, 45, 46, 48, 49 and 51-55) contain disclaimers or partial disclaimers that properly track the requirements of Fed. R. Civ. P. ("Rule") 8(b)(5) as the basis for a deemed denial of the corresponding allegations of the Amended Fourth Party Complaint. But then having done so, Segal Advisors' counsel inappropriately add the phrase "and, therefore, denies the same."

That is of course oxymoronic--how can a party that asserts (presumably in good faith) that it lacks even enough information to form a belief as to the truth of an allegation then proceed to deny it in accordance with Rule 11(b)? Accordingly that phrase

is stricken wherever it appears in Segal Advisors' Answer.

It should be added that this Court expresses no view as to the sufficiency or insufficiency of the seven affirmative defenses ("ADs") that Segal Advisors appends to the Answer. If and to the extent that the fourth party plaintiffs wish to raise any questions in that respect, they may do so by an appropriate motion.

One more thing. After this memorandum order had originally been transcribed and was in the editing process preceding its issuance, this Court received Segal Advisors' Answer to the Amended First Party Complaint (filed electronically yesterday, October 13). That responsive pleading unsurprisingly committed the same pleading sin that has been addressed here. This Court will not wade through that 42-page pleading to identify all the paragraphs where the oxymoronic "and, therefore, denies the same" phrase appears--instead it is simply stricken throughout the Answer.



Milton I. Shadur
Senior United States District Judge

Date: October 14, 2009