

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

CRAIG MCCARRELL, et al.,)	
)	
Plaintiff,)	
)	
v.)	No. 10 C 1530
)	
WIRTZ BEVERAGE ILLINOIS, LLC,)	
etc.,)	
)	
Defendant.)	

MEMORANDUM

On April 13, 2010 Wirtz Beverage Illinois, LLC ("Wirtz") filed a Fed. R. Civ. P. ("Rule") 12(b)(6) motion (Dkt. 19) and supporting memorandum (Dkt. 22), to be presented on April 16, in which motion Wirtz sought to dismiss the then-existing Complaint that had been brought against Wirtz and Glazer's Distributors of Illinois, Inc. ("Glazer's") by a trio of plaintiffs. Because this Court found that linking Wirtz and Glazer's in the same employment discrimination action was inappropriate, on May 11 it directed that plaintiffs' claims be asserted in two separate lawsuits, and on June 2 the same plaintiffs filed an Amended Complaint ("AC") (Dkt. 34) against Wirtz alone.

As a further step toward unscrambling the ill-conceived initial Complaint, on June 7 this Court entered a minute order (Dkt. 37) that in part denied the Rule 12(b)(6) motion without prejudice. Although Wirtz has not since renewed its earlier motion as to the now-extant AC, counsel for Nathaniel Chavis, Jr. (one of the three plaintiffs) has just filed what he labels

"Response to Defendant's Rule 12(b)(6) Motion To Dismiss." Even though the situation is thus reminiscent of the old Johnny Carson "Carnac the Magnificent" routine ("Here's the answer. What's the question?"), this Court will take no action on the asserted Response unless and until Wirtz's counsel converts it into a live matter by refiling a Rule 12(b)(6) motion (if counsel deems that appropriate).



Milton I. Shadur
Senior United States District Judge

Date: July 9, 2010