

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

MICHELE F. O'BRYAN,)
)
 Plaintiff,)

v.)

Case No. 12 C 5305

POSTRACK TECHNOLOGIES, INC.,)
DONALD HEIDRICH, MARK AUBRY,)
WILLIAM WASHBURN and STEVEN)
GONZALO,)
)
 Defendants.)

POSTRACK TECHNOLOGIES, INC.,)
)
 Counter-Plaintiff,)

v.)

MICHELE F. O'BRYAN and DOUGLAS)
SPITZ,)
)
 Counter and)
 Third-Party Defendants.)

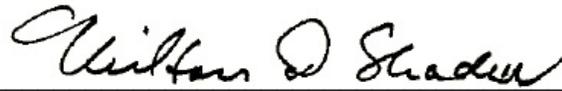
MEMORANDUM ORDER

Michele O'Bryan ("O'Bryan") has filed her Answer plus an affirmative defense to the Counterclaims brought against her in this action. This memorandum order is issued sua sponte to address one problematic aspect of that responsive pleading.

In each of Answer ¶¶3, 13 and 22 O'Bryan's counsel has coupled a denial with a disjunctive disclaimer under Fed. R. Civ. P. ("Rule") 8(b)(5) as to certain allegations of the Counterclaims. Although federal practice does permit some internally inconsistent pleading

under appropriate circumstances, what has been attempted here is not one of them.

Accordingly each of those hybrid assertions is stricken. O'Bryan is granted until December 27, 2012 to choose which of those two inconsistent alternatives should be asserted in the three paragraphs referred to above, in compliance with the subjective and objective good faith demanded by Rule 11(b).



Milton I. Shadur
Senior United States District Judge

Date: December 17, 2012