

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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METROPOLITAN PROPERTY AND	)	
CASUALTY INSURANCE COMPANY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 15-12939-LTS
	)	
SAVIN HILL FAMILY	)	
CHIROPRACTIC, INC., et al.,	)	
	)	
Defendants.	)	

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ORDER ON MOTION TO DISMISS  
AND SECOND SCHEDULING ORDER

October 11, 2017

SOROKIN, J.

1. The Motions to Dismiss

Magistrate Judge Dein issued a Report and Recommendation (#498) on motions to dismiss (Docket Nos. 331, 334, 336, 337, 339 and 342) the Second Amended Complaint (“SAC”). The Court extended the time for objections which have now been filed. The Court reviews the objections and the Motions de novo under the applicable Motion to Dismiss standards.

Defendants O’Desky, McGovern, O’Desky, Imonti, Robin and Ronchetti’s Objections (#518) are OVERRULED and as to these defendants the Court ADOPTS the Report and

Recommendation and DENIES their Motion to Dismiss (#331) except as stated in the Report and Recommendation.

Defendants Soto and Asenjo's objection (#523) to the Report and Recommendation including the incorporated appeal from the Magistrate Judge's Order (#498) allowing in part the Plaintiffs' Motion to Strike certain exhibits from their Motion is OVERRULED and as to these defendants the Court ADOPTS the Report and Recommendation and DENIES their Motion to Dismiss (#334) except as stated in the Report and Recommendation.<sup>1</sup>

Defendants Savin Hill Family Chiropractic, Logan Chiropractic, Metro Coach, Tony Ramos, and Kenneth Ramos, objection (#524 ) to the Report and Recommendation, pursuant to the previously articulated standards, is OVERRULED and their Motion to Dismiss (#337) is DENIED except as stated in the Report and Recommendation.

Defendants Hernandez, Soto, A. Ramos, T. Ramos, Steward and Mendoz Motion to Dismiss (#336), after consideration under the applicable standard, is DENIED except as stated in the Report and Recommendation and the Report and Recommendation is ADOPTED.

The Motions to Dismiss of Jeffrey Glassman (#339) and the Glassman Firm (#342) are DENIED, except as stated in the Report and Recommendation, their combined objection (#522 ) OVERRULED and the Report and Recommendation ADOPTED.

The objection of the Plaintiffs (#525) to those portions of the Report and Recommendation suggesting that the SAC failed to state the "victim enterprise" theory of civil RICO, that Counts I and III of the SAC be dismissed, that Count VIII be dismissed for failure to

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<sup>1</sup> In an abundance of caution, the Court has reviewed all aspects of this objection (that is both the objection to the Report and Recommendation and the appeal from the denial of the motion to strike) de novo in light of the connection between the ruling on the motion to strike and the recommendation on the motion to dismiss.

plead a breach of contract claim and that Count IX be dismissed for failure to plead intentional interference with contractual relationships is OVERRULED and the Report and Recommendation ADOPTED.

Accordingly, the Court ADOPTS IN FULL the Report and Recommendation. Defendants have ten days to file answers to the SAC. They shall answer every paragraph of the SAC except those paragraphs within a count dismissed by the Court.

2 Case Schedule

While the parties' submissions (#526, 546 & 558) identify topics for discovery and, in one case, possible proposed motion or phasing neither party has filed a proposed discovery schedule. The parties shall file a joint statement for the Rule 16 Conference addressing all of the issues ordinarily addressed. The parties shall file one joint statement proposing their joint or separate positions. This statement shall be filed by October 18, 2017. The October 12, 2017 conference is **rescheduled to October 25, 2017 at 2:30 p.m.**

3. Pending Motions

Plaintiffs' response to Defendants' Motion for Sanctions (#557) is due by October 19, 2017. Defendants may file a reply without further leave of Court provided the reply does not exceed four pages and is filed by close of business October 23, 2017. Plaintiff may not file a surreply unless invited by the Court.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge