



2. That part of defendants' Motion to Dismiss which seeks dismissal of Counts I, IV, V and VI of the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) is **DENIED**;

3. That part of defendants' Motion to Dismiss which seeks dismissal of Count VI of the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(7) is **DENIED**.

**BY THE COURT:**

/s/ Jan E. DuBois

**JAN E. DUBOIS, J.**

