

(“Vision”) (collectively, the “Defendants”), and any response thereto, it is hereby ORDERED and DECREED that the Defendants’ Motion is GRANTED, and

1. the following Counts of the Master Complaint for Class Actions (Docket Index No. 136) are hereby DISMISSED as to the Defendants: Counts II, IV, V, VI, and VII; and

2. the following Counts of the Individual Plaintiffs’ Master Long Form Complaint (Docket Index No. 134) are hereby DISMISSED as to the Defendants: Counts I, II, III, IV, V, VI, and VIII.

BY THE COURT:

A. Richard Caputo, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, *et al.*,

v.

ROBERT J. POWELL, *et al.*,

CIVIL ACTION
NO. 09-cv-286
(Judge Caputo)

WILLIAM CONWAY, *et al.*,

v.

MICHAEL T. CONAHAN, *et al.*,

CIVIL ACTION
NO. 09-cv-291
(Judge Caputo)

H.T., *et al.*,

v.

MARK A. CIAVARELLA, JR., *et al.*,

CIVIL ACTION
NO. 3:09-cv-357
(Judge Caputo)

SAMANTHA HUMANIK,

v.

MARK A. CIAVARELLA, JR., *et al.*,

CIVIL ACTION
NO. 09-cv-0630
(Judge Caputo)

**DEFENDANTS ROBERT J. POWELL'S AND VISION HOLDINGS, LLC'S
MOTION TO DISMISS THE MASTER COMPLAINTS
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendants Robert J. Powell (“Powell”) and Vision Holdings, LLC (“Vision”) (collectively “Defendants”), by and through their attorneys, Montgomery, McCracken, Walker & Rhoads, LLP, respectfully move for the dismissal of certain portions of the Master Complaint for the Class Actions (the “Class Complaint”) and the Individual Plaintiffs’ Master Long Form Complaint (the “Individual Complaint”) pursuant to Fed. R. Civ. P. 12(b)(6).

In accordance with Local Civil Rule 7.5, the reasons supporting this Motion, and a concise statement of the legal contentions and authorities relied upon in support of Defendants’ motion, are contained in (a) the Joint Memorandum In Support Of Certain Defendants’ Motions To Dismiss The Complaints Under Fed. R. Civ. P. 12(b)(6) (the “Joint Memorandum”) and (b) Defendants’ concurrently filed Supplemental Brief in further support of the Joint Memorandum (the “Supplemental Brief”).

Defendants have submitted and relied upon both the Joint Memorandum and the Supplemental Brief in accordance with the Court’s Order of March 18, 2010 (Docket Index No. 421) (the “Common Briefing Order”), which granted certain defendants, including Powell and Vision, leave (a) to file a common brief in support of their respective motions to dismiss, (b) to join or adopt by reference that

common brief regardless of the Local Civil Rule 7.8(a), and (c) to file a separate memorandum in support of their motion to dismiss.¹

Respectfully Submitted,

Dated: March 22, 2010

/s/ Mark B. Sheppard
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¹ Because the motion to grant the Common Briefing Order, which contemplated motions to dismiss being filed by certain defendants, was unopposed by Plaintiffs' counsel, Plaintiffs' counsel have already expressed their lack of concurrence to the motions to dismiss being filed by the defendants who supported the issuance of the Common Briefing Order. As a result, there was no need for counsel for Defendants to seek concurrence from Plaintiffs' counsel again regarding this Motion in accordance with Local Civil Rule 7.1.

CERTIFICATE OF SERVICE

I, Mark B. Sheppard, Esquire, hereby certify that on this date, the foregoing Motion to Dismiss the Complaints filed by Defendants Robert Powell and Vision Holdings, LLC (the "Motion") was filed via ECF and served electronically upon counsel of record, and that the Motion was also served by U.S. First Class mail, postage prepaid, on the following defendants at the following addresses:

Mark A. Ciavarella
585 Rutter Avenue
Kingston, PA 18704

Michael T. Conahan
301 Deer Run Drive
Mountain Top, PA 18107

Dated: March 22, 2010

/s/ Mark B. Sheppard
Mark B. Sheppard, Esquire