STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CELLULAR CITY, INC,

Plaintiff,

v

Case No. 2014-143332-CK
Hon. Wendy Potts

SOUTH LYON CELL CITY, INC, et al,

Defendants.
_____/

OPINION AND ORDER RE: DEFENDANT MATTHEW N. KINAYA'S MOTION FOR MORE DEFINITE STATEMENT

At a session of Court
Held in Pontiac, Michigan
On
NOV 10 2014

Defendant Matthew Kinaya moves the Court for a more definite statement of Plaintiff Cellular City, Inc's claims under MCR 2.115(A). The rule allows the Court to order a party to file an amended pleading if it is "so vague or ambiguous that it fails to comply with the requirements of these rules." The Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

Kinaya raises three issues with Cellular City's complaint. First, he complains that all of Cellular City's claims are alleged collectively against all Defendants and fail to specify which claims are alleged against Kinaya. However, Cellular City maintains that each of its claims is, in fact, alleged against all Defendants. Further, the complaint contains sufficient factual allegations to reasonably inform Kinaya of the nature of the claims he is called on to defend. MCR

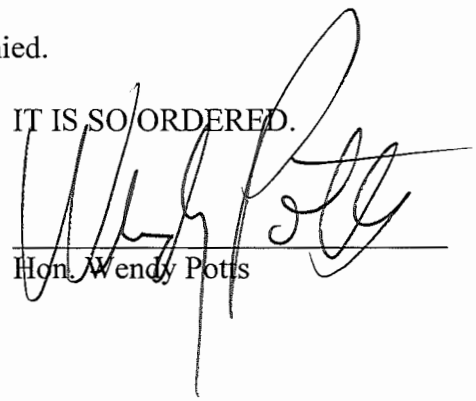
2.111(B)(1). To the extent that Kinaya believes that he cannot be held liable for some or all of Cellular City's claims, he should file a dispositive motion.

Kinaya also asserts that Count II alleging fraud and misrepresentation fails to allege the claims with particularity. MCR 2.112(B)(1). However, Cellular City alleged all of the required elements of a fraud claim and alleged several facts supporting the elements of the claims. See *M & D, Inc v McConkey*, 231 Mich App 22, 27; 585 NW2d 33 (1998). To the extent that Kinaya believes that the facts alleged in the complaint do not support a fraud or misrepresentation theory, he should raise that issue in a dispositive motion.

Finally, Kinaya asserts that Cellular City failed to attach the contracts at issue as required by MCR 2.113(F)(1). Cellular City claims that the agreements are confidential and proprietary and it does not have to attach them to the complaint if they are in Defendants' possession. However, the complaint must allege that Defendants are in possession of the agreements, which it does not do. MCR 2.113(F)(1)(b). The Court orders Cellular City to file an amended complaint within 7 days that either attaches the pertinent parts of the agreements or alleges that Defendants are in possession of them. Cellular City may redact irrelevant confidential or proprietary information from any part of the agreements it attaches to the complaint.

In all other respects, Kinaya's motion is denied.

IT IS SO ORDERED.



Dated: NOV 10 2014

Hon. Wendy Potts